DICTIONARY OF

CONSTITUTIONAL AND PARLIAMENTARY TERMS

LOK SABHA SECRETARIAT
New Delhi

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LOK SABHA SECRETARIAT
NEW DELHI
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PREFACE
(To the Second Edition)

This is the second edition of the Dictionary of Constitutional and Parliamentary Terms. The book was first published in 1991. It was felt that a revised edition was overdue. The basic purpose behind bringing out the revised edition is to make the publication upto date. Many amendments to Constitution and existing laws, changes in the Rules of Procedure and Conduct of Business of the House, have taken place over these years. New precedents and conventions have also evolved during this period. It is necessary that all these significant developments and changes are reflected in the revised edition.

For bringing out the second edition, the revised editions of all those dictionaries and encyclopaedia and books on Parliamentary Practices which were consulted while preparing the first edition, have been consulted extensively. In addition to them, "Law of Elections" by P.D.T. Achary, "Election Law, Practice & Procedure" by V.S. Rama Devi and S.K. Mendiratta have also been consulted. Some internet sites have also been accessed, to refer to some recent changes.

Since there have been some major additions in the existing Practice & Procedure of Parliament, like introduction of Departmentally Related Subject Committees and other Committees, some 10 new terms have been added to this edition.

A revised bibliography has been added to facilitate further reference. As in previous edition, a suitably revised subject index has also been appended.

The book was originally prepared by the Interpreters Branch and now again the efforts put in by Interpreters Branch in revising this publication are indeed commendable.

Utmost care has been taken to ensure that all the amendments are carried out in the revised edition. However, some errors or omissions might have inadvertently crept in. We would welcome any suggestion for further improvement.

We hope that this revised edition would prove to be a helpful guide and reference manual for the Parliamentarians and Officers of the Legislatures, the learned and the laity.

NEW DELHI;
Dated 2.8.2005

P. D. T. ACHARY,
Secretary General, Lok Sabha

PREFACE
(To the First Edition)

The idea of a Dictionary of Constitutional and Parliamentary Terms was conceived to fulfil a long-felt need to provide to the Parliamentarians and others a publication containing concise definitions and descriptions of various Constitutional as well as Parliamentary terms which are in use in Indian Legislatures and Commonwealth Parliaments. The general scheme of this dictionary is that the ordinary meaning of each term is given first, followed by the legal meaning and then its connotation in Parliamentary context. One special feature of this work is that while describing the various terms, the British as well as other Commonwealth Parliamentary practices, wherever possible, have been given alongwith Indian practices and procedures. These would give the reader a comparative picture about the practices and procedures in these Parliaments which vary in many respects. However, the emphasis is upon the practice in our own Parliament. While preparing the descriptions, care has been taken to highlight the most important aspects of each term. Needless details have been avoided and even the most complex practices have been explained in simple language and in brief. The headings are arranged in an alphabetical sequence and cross-referencing has been done wherever needed.

A large number of dictionaries and encyclopaedia have been consulted for preparing this work. These have been listed out on the acknowledgement page. However, I must make a special reference to Erskine May's treatise on "The Law, Privileges, Proceedings of Parliament" and the "Practice and Procedure of Parliament" by Kaul & Shakdher—two outstanding reference works on contemporary parliamentary practices and procedures.

I must acknowledge the painstaking efforts put in by the Interpreters Branch in preparing this work.

I hope this book will be welcomed by the Parliamentarians, experts and laymen alike. Since this is the first work of this nature produced by the Lok Sabha Secretariat, there are bound to be some deficiencies. I trust that they will be kind enough to point out any errors of omission or commission which they may find and give suggestions for further improvement.

NEW DELHI;
Dated 25.6.1991

K. C. RASTOGI,
Secretary General, Lok Sabha

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DESCRIPTION OF ABBREVIATIONS USED IN FOOTNOTES

S.No.	Abbreviation used	For
1.	Abraham and Hawtrey	Parliamentary Dictionary by L.A. Abraham and S.C. Hawtrey (1956) and H.M. Barclay (Third Edition, 1970)
2.	Achary P.D.T.	Law of Elections by P.D.T. Achary (2004)
3.	American Dictionary	The American Heritage Dictionary of the English Language by William Morris (1996), 3rd Edition
4.	Anderson	A Dictionary of Law by William C. Anderson (1889)
5.	Art.	Constitution of India (Articles)
6.	Basu	Commentary on the Constitution of India by Durga Das Basu
7.	Ballentine	Law Dictionary by James A. Ballentine (Second Edition, 1948)
8.	Campion	An Introduction to the Procedure of the House of Commons by Sir Gilbert Campion (1950)
9.	Century Cyclopaedia	The new Century Cyclopaedia of Names by Clarence L. Barnhart (1954)
10.	Chambers	Chambers Concise 20th Century Dictionary by Davidson, Seaton, Simpson
11.	Dicey	Introduction to the Study of the Law of the Constitution by A.V. Dicey (2003)
12.	Directions	Directions by the Speaker, Lok Sabha (1998)
13.	Directions	Directions by the Chairman, Rajya Sabha (August 2002)

S.No.	Abbreviation used	For
14.	Dunner	Dictionary of Political Sciency by Joseph Dunner (1965)
15.	Handbook	Handbook for Members of Lok Sabha by Lok Sabha Secretariat (13th Edition, 1999)
16.	Handbook	Handbook for Members of Rajya Sabha (April 2002)
17.	Henig	Political Parties in the European Community, edited by Stanley Henig
18.	Jennings (P)	Parliament by Sir Ivor Jennings (2nd Edition, 1970)
19.	Jennings (CG)	Cabinet Government by Sir Ivor Jennings (1951)
20.	Kaul and Shakdher	Practice and Precedure of Parliament by M.N. Kaul and S.L. Shakdher (5th Edition, 2001)
21.	Laundy	The Office of the Speaker in the Parliaments of Commonwealth by Philip Laundy
22.	Lees & Kinber	Political Parties in Modern Britain edited by John D. Lees and Richard Kinber
23.	Leonard	Election in Britain by R.L. Leonard
24.	May	Parliamentary Practice by Erskine May (22nd Edition, 1997)
25.	Mozley and Whiteley	Law Dictionary by Mozley and Whiteley (12th Edition, 2001)
26.	Oxford	The Concise Oxford Dictionary by H.W. Fowler and F.G. Fowler
27.	Oxford (Illustrated)	The Oxford Illustrated Dictionary
28.	Oxford (Learner)	Oxford Advanced Learner's Dictionary of Current English by A.S. Hornby (2002)
29.	Oxford (Students)	The Oxford Students Dictionary of Current English

S.No.	Abbreviation used	For
30.	V.S. Ramadevi & S.K. Mendiratta	Election Law Practice & Procedure, (1st Edition, 2000)
31.	Randal	Political Parties in the third world edited by Vicky Randal
32.	Random House Dictionary	The Random House Dictionary of the English Language by Jess Stein and Laurence Urdang
33.	Reader's Digest Dictionary	Reader's Digest Great Illustrated Dictionary (1984)
34.	Rules (Lok Sabha)	Rules of Procedure and Conduct of Business in Lok Sabha (10th Edition, 2002)
35.	Rules	Rules of Procedure and Conduct of (Rajya Sabha) Business in the Council of States (5th Edition, July 2000)

A

ACT (OF PARLIAMENT)

An action; a thing done or established; a written law formally passed by the legislative power of a State; a bill enacted by the legislature into a law, as distinguished from a bill which is in the form of draft of a law or legislative proposal presented to the legislature for enactment;[1] in India, a bill passed by the two Houses of Parliament and assented to by the President[2] and in the absence of an express provision to the contrary, operative from the date of notification in the Gazette.[3]

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[1]Ballentine p. 19
[2]Handbook p. 73
[3]Basu, p. 637

ACT OF STATE

Act of the sovereign power of a country or its agent (if acting *intra vires*). By its nature such an act cannot be questioned by any court of law.[1] In international law, the uncontrolled exclusive exercise of powers of a State, that is, both of the power of entering into relations with other States, and of the power of governing its own subjects;[2] acts done against aliens in exercise of sovereign power of the State; Municipal courts debarred from entering into the validity of the act of the State (*The Secretary of State for India in Council Vs. Kamachee Boye Saheba*, 7 MIA 476). The plea of act of State not available against subjects (*Jahangir Vs. Secretary of State for India*, 6 Bom., L.R. 131, *Virendra Vs. State of Uttar Pradesh* 1955 S.C.R. 415 to 436). The arrest of an alien enemy under Defence (General) Regulations, 1939 is not an act of State (*Hirsch Vs. Somervell*, 62 TLR 592).[3]

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[1]Wharton, p. 21
[2]Anderson, p. 960
[3]Stroud, V.I.p. 38.

ACCUSED

The person or persons against whom a charge of crime or misdemeanour is brought;[1] person charged with crime;[2] a person against whom a formal accusation relating to the commission of an offence has been levelled which may result in prosecution.

[1]Webster, p. 11
[2]Wharton, p. 16

ADDRESS (PRESIDENT'S/PRESIDENTIAL)

To speak, write or otherwise communicate directly to; to deliver a prepared or formal speech to; a formal statement of policy of opinion by a sovereign or President to the people or to the legislative body;[1] in India, prepared speech delivered by the President of India to both Houses of Parliament assembled together at the commencement of the first session after each general election to Lok Sabha and at the commencement of the first session of each year informing Parliament of the causes of its summons[2] which is later laid before and discussed on a formal Motion of Thanks in each House of Parliament[3] or an address by the President of India to either House of Parliament or both Houses assembled together on any other occasion.[4]

The Council of Ministers approves the text of the President's Address and is responsible for its contents.

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[1]Webster, p. 25
[2]Art. 87(1)
[3]Rule 16
[4]Art. 86(1)

ADJOURNMENT OF THE HOUSE

Suspend (proceedings) for the day; to put off until a future day.[1] The word 'Adjourn' applies to the action of a deliberative body etc. in bringing a sitting to a close, with the intention of resuming on the next working day or a specified later date.

In U.K., the House of Lords and the House of Commons may each adjourn at their own pleasure. In both Houses, an adjournment is effected by the adoption of the motion, 'That this House do now adjourn'. The motion to adjourn the House provides an opportunity for debate and half-an-hour is allotted for such debate. The subjects debated are of a wide range. In the House of Commons, sometimes, adjournment takes place without such a motion being carried, *e.g.,* the Speaker may adjourn the House due to the absence of quorum or owing to grave disorder in the House.[2]

In Lok Sabha, the Speaker determines when sitting of House is to adjourn *sine die* or to a particular day or to an hour or part of same day while in Rajya Sabha it is the Chairman who determines.[3] Sitting of Lok Sabha is normally adjourned at 6 PM. Rajya Sabha is normally adjourned at 5 PM. Sitting does not conclude automatically but only when Speaker or the Chairman, as the case may be, makes announcement to that effect. Change in time of adjournment beyond the normal hour is made by Speaker/Chairman after taking sense of House. House may be adjourned before normal time if business or agenda is exhausted; if there is lack of quorum or uncontrollable disorder; due to death of a sitting member or of a distinguished national or world leader or to express sorrow or sympathy at the death of common people in a tragedy etc.

During session, House is adjourned at close of sitting to meet again at 11 AM on next working day as per calendar of sittings. On the last day of session, Speaker adjourns the House *sine die*. National song *Vande Mataram* is played before adjourning the House *sine die*.

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[1]Webster, p. 18
[2]Wilding and Laundy, p. 6
[3]Rule 15 (Lok Sabha) read with rule 11 and 13 (Rajya Sabha)

ADJOURNMENT MOTION

A motion for discussing "a specific and important matter that should have urgent consideration".[1] It can be moved by any member of the House and is in the nature of emergency motion of censure upon the Government.[2]

The object is to draw the attention of the Government to a matter of urgent public importance so as to criticize the decision of Government in an urgent matter in regard to which a motion or resolution with proper notice will be too late.[3] Matter is raised with permission of the Speaker by interrupting regular business of the House.[4]

In U.K., adjournment motion can be moved only in the House of Commons.[5] The Canadian House of Commons follows the same practice. In the Australian Parliament, adjournment motion is regarded as something akin to the emergency motion of censure against the Government.

In India, an adjournment motion, being in the nature of a censure motion, though not absolutely, is moved only in Lok Sabha. In order to be admissible, the subject of adjournment motion must have a direct or indirect relation to the conduct or default on the part of the Union Government and must precisely pinpoint the failure of the Union Government in the performance of its duties in accordance with the provisions of the constitution and law.[6]

If the Speaker gives his consent after satisfying himself that the matter to be raised is definite urgent and of public importance and holds that the matter proposed to be discussed is in order, he shall call the member concerned who shall rise in his place and ask for leave to move the adjournment of the House. If objection to leave being granted is taken, the Speaker shall request those members who are in favour of leave being granted to rise in their places, and if not less than fifty members rise accordingly, the Speaker shall intimate that leave is granted. If not, he shall inform the House that the member has not the leave of the House.[7]

The Motion 'that the House do now adjourn' is taken up at 16.00 hours or at an earlier hour if the Speaker, after considering the state of business in the House, so directs. When the motion "that the House do now adjourn" is being discussed *i.e.* from the time when the adjournment motion is taken up till it is disposed of, the Speaker has no power to adjourn the House for the day because during that time the power vests in the House to take a

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[1]Wilding and Laundry, p. 247
[2]*Ibid,* p. 9
[3]Kaul & Shakdher, p. 496
[4]*Ibid,* p. 496
[5]*Ibid,* p. 496
[6]Kaul & Shakdher, p. 500
[7]Rule 56 & 60

decision on its adjournment. He cannot also postpone the voting to the next sitting. The motion has to be disposed off before the House is adjourned.[8]

The adjournment proposed is thus not of the proceedings of the day but of the proceedings in regard to the items listed on the agenda in order to take up some matter of urgent public importance. In case adjournment motion is adopted the House automatically stands adjourned in pursuance of the adoption of the motion. If the motion is negatived discussion on the business which had been interrupted by the adjournment is resumed or the next item on the agenda taken up for a short while and then the House is adjourned by the Speaker for the day.[9]

If an adjournment motion is carried, it indicates more strong a disapproval of the policy of Government than a censure against it.[10]

[8]Kaul & Shakdher, p. 520
[9]*Ibid,* p. 521
[10]*Ibid,* p. 498

ADMONITION

A mild rebuke;[1] a warning reproof;[2] a reprimand to an accused person about to be discharged;[3] a judicial or ecclesiastic censure or reprimand.[4]

A punishment administered by the Presiding Officer of a legislature to an offender for breach of privilege or contempt of the House in case of an offence which is not so grave as to warrant his committal;[5] it is the mildest form of punishment.[6]

In the House of Commons, U.K., when a person who is not member is directed to be admonished, the offender, if he is in attendance, is brought to the bar of the House and reprimanded by the Speaker; if not in attendance, he is brought to the bar the following or some later day and admonished.[7] If the offender is a member, he receives the admonition standing in his place. If in the custody of the Serjeant, he is admonished at the bar.

Whatever is said by the Speaker while admonishing the offender is entered in the Journals.[8]

In the Lok Sabha, as well as in Rajya Sabha, as in the House of Commons, an offender whose offence is not so serious as to warrant his imprisonment, is summoned to the bar of the House and admonished by the Speaker by the order of the House.[9] This punishment is administered to the offending members too.

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[1]Webster. P.19
[2]Oxford, p. 18
[3]Anderson. P. 36
[4]Wharton, p. 30
[5]May, p. 138
[6]Kaul & Shakdher, p. 261
[7]May, p. 139
[8]*Ibid,* p. 139
[9]Kaul & Shakdher, p. 139, 261

ADVOCATE-GENERAL

The principal law officer of a State: appointed by the Governor to give advice to the Government of the State upon such legal matters, and to perform such other duties of a legal character as may be referred or assigned to him by the Governor.[1]

A person qualified to be appointed as a High Court Judge is appointed as Advocate-General; he holds office during the pleasure of the Governor.[2] His main functions, apart from giving legal advice to the Government of the State, are (i) to represent the State in original cases in the High Court to which the State is a party; (ii) to represent the State in any criminal appeals in the High Court which are regarded as of special importance; (iii) to enter a *nolle prosequi* or grant a fiat for review of verdict in criminal cases tried by the High Court in its original jurisdiction; (iv) to protect public rights in matters, such as public charities and public nuisances.[3]

The salary of the Advocate-General is not charged upon the Consolidated Fund of the State and hence is subject to the vote of the Assembly.[4] The Attorney-General and after him, the Advocate-General of a State have precedence over other advocates;[5] however, the Advocate-General has no *ex-officio* right of audience in courts outside his State.[6]

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[1] Art. 165 (1) and (2)
[2] *Ibid,* 165 (1) and (3)
[3] Basu, No. 1, H.p. 133
[4] Basu, p. 125
[5] Kaul & Shakdher, p. 154
[6] Basu, p. 123

AFFIRMATION

A positive declaration;[1] a solemn declaration without oath;[2] a solemn declaration made by a member of a legislature in lieu of oath before he takes his seat in the House.

In the House of Commons, a member who objects to be sworn is allowed to make an affirmation. In the House of Lords a Lord can make affirmation in lieu of an oath.[3]

In the Indian Parliament too, members are allowed to make affirmation in lieu of oath. Every member of Parliament, before taking his seat, has to make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation[4] according to his choice.

A member who has not already made an affirmation, in pursuance of Art. 99 of the Constitution, may do so at the commencement of a sitting of the House, or at any other time of the sitting of the House, as the Speaker or the Chairman of Rajya Sabha may direct, on any day after giving previous notice in writing to the Secretary-General.[5]

The form for making affirmation in the case of a member of the House of the People is as follows:

"I, A.B., having been elected a Member of the House of the People do solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter."[6]

Affirmation in lieu of oath is also made by the President and Vice-President of India, Governor of a State, Ministers of the Union, Ministers of a State Government, Members of State Legislatures, Judges of the Supreme Court and High Courts, Comptroller and Auditor-General of India, candidates for election to Parliament and State Legislatures.[7]

Parliamentary Committees may administer affirmation to a witness examined before them in the following form:

> "I, A.B., solemnly affirm that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false."[8]

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[1]Webster, p. 35
[2]Wharton, p. 40
[3]May, p. 282, 242 read with p. 237
[4]Art. 99
[5]Rule 5, Rule 5 of Rajya Sabha
[6]Constitution of India, 3rd Schedule
[7]Arts.60, 69, 75(4), 84(a), 124(6), 148(2), 159, 164(3), 173(a), 188, 219
[8]Rule 272

ALLEGATION

Something alleged, an assertion; an assertion without proof;[1] assertion (esp. one not proved[2]); a statement of what one can prove;[3] an asserted fact;[4] an assertion made by a member on the floor of a legislature against a fellow member or a Minister.

In the House of Commons, U.K., when one member makes an allegation against the pecuniary interest of another member, he is required to do so in writing substantiated by suppporting evidence to the Parliamentary Commissioner for Standards who refers the allegation to the Select Committtee on Members' Interests. The Committee after hearing both Members together with other evidences, if any, makes a report to the House together with a recommendation as to what action is to be taken, whose decision on the matter shall be final.[5] Imputations of falsehood, uttered by Members of the House of Commons against Members of the House of Lords are compelled to be withdrawn by the intervention of the Chair.[6]

In the Indian Parliament, an allegation of a defamatory or incriminatory nature against any person or Minister can only be made after giving adequate advance notice to the Speaker and also to the Minister concerned so as to enable the Minister to investigate the matter for the purpose of a reply. The Speaker may prohibit any member from making any such allegation, if it is in his opinion derogatory of the House or no public interest is served. Identical provision exists in Rajya Sabha.[7]

If a Member makes an allegation without giving advance notice to the Speaker, he is called to order by the Chair. In case any allegation has gone on record the Minister or the Member against whom allegation has been made is allowed, on his request; to make a personal explanation in the House with a view to clarify the position either on the same day or later on.[8]

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[1]Webster, p. 38
[2]Oxford, p. 32
[3]Anderson, p. 50
[4]Wharton, p. 52
[5]May, p. 427
[6]*Ibid*, p. 386
[7]Rule 353, proviso to Rule 353 Rule 238A of Rajya Sabha
[8]Kaul & Shakdher, p. 413

ALLOCATION OF TIME

To set apart time for a specific purpose;[1] to allocate time for different items of business in Parliament.

In U.K., the House of Commons has, in principle, control of the time of the House, but, in actual practice, this control has been delegated to the Government.[2] While distributing time for discussing a particular matter, the Government takes into account the wishes of the Opposition and even groups of Private Members.[3] Orders are made by the House allocating specified number of days to the various stages of a bill in order to avoid the prolongation of the sittings and debate; these are called the allocation of time orders; also referred to as "guillotine" motions.[4] 13 Fridays are allocated for Private Members' Bills.[4a]

In India, the practice is that all items of business to be transacted by the House during the Government time including those to which the Speaker is empowered to allot time himself, are normally placed before the Business Advisory Committee for allocation of time.[5] The report of the Business Advisory Committee is presented to House for approval after which the allocation of time in respect of Bills and other business becomes an order of the House. The priority in respect of Government Business is determined by the Government.

No variation in the Allocation of Time Order shall be made except on a motion made, with the consent of the Speaker, and accepted by the House. The Speaker may, however, after taking the sense of the House, increase the time, not exceeding one hour, without any motion being moved.[6]

The last two and a half hours on every Friday or such other day of the week as may be allotted for the purpose are spent on Private Member's Business. The time for Private Member's Bills and Resolutions is allocated by the Committee on Private Member's Bills and Resolutions and has to be approved by the House.[7] In Rajya Sabha, time for the Government Business as well as for Private Member's Bills and Resolutions is allocated by Business Advisory Committee of that House.[8]

(*See* also Guillotine)

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[1] Webster, p.40
[2] May, p.269
[3] *Ibid,* p.269
[4] *Ibid,* p 410
[4a] *Ibid,* p. 270
[5] Kaul & Shakdher, p.775
[6] Rule 292
[7] Rule 26
[8] Rule 33 of Rajya Sabha

AMENDMENT(S)

Correction of an error in (legal document); improvements in (measure before Parliament);[1] a correction of errors, faults etc;[2] correction of a fault; the curing of a defect; improvement;[3] a correction of any errors in the writ or pleadings in actions, suits or prosecutions;[4] a structural improvement.[5]

A device to alter a motion moved or question under discussion in the Legislature; includes omission substitution, addition and insertion of certain words, figures or marks to the clause of a bill, a resolution or a motion or to an amendment made thereof;[6] the object being to modify a question before the Legislature with a view to increasing its acceptability or to present to the legislature a different alternative to the original question[7].

Notice of an amendment is given and is moved by the member in whose name it stands. However, in the House of Commons an amendment can be moved by any member if the member who gave notice of the same does not rise to move it;[8] the Speaker has also the power to select amendments; this power is exercised in such a way as to bring out the salient points of criticism, to prevent repetition and overlapping and, where several amendments deal with the same point, to choose the more effective and the better drafted; this power includes the power to select amendments proposed to be moved to an amendment selected by the Chair.

Chair does not give reasons for not selecting an amendment.[9]

In the Indian Parliament, the member who gives notice of the amendment alone has the right to move it; similarly, an amendment given notice of by a Minister cannot be moved by another Minister unless advance notice therefor is given by him;[10] amendments are moved in the interval between the proposing and the putting of the question before the House;[11] an amendment which has merely the effect of a negative vote is not permissible;[12] here too, the Speaker has the power to select the amendments to be proposed in respect of any motion;[13] he may also refuse to put an amendment which in his opinion is frivolous.[14]

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[1] Oxford, p. 37
[2] Webster, p. 47
[3] Anderson, p. 55
[4] Wharton, p. 58
[5] Stroud, pp. 128&498
[6] Kaul & Shakdher, p. 664
[7] May, p. 343
[8] *Ibid,* p. 344
[9] *Ibid,* p. 406
[10] Kaul & Shakdher, p. 515
[11] Kaul & Shakdher, p. 59
[12] Rule 344(2)
[13] Rule 346
[14] Rule 347

ANGLO-INDIAN

A person of both English and Indian ancestry;[1] of British birth but living or having lived long in India;[2] a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only.[3] If the President or the Governor of a State is of the opinion that the community is not adequately represented in the Lok Sabha/State Assembly as the case may be, the President/Governor can nominate 2/1 member of that community to that House. The reservation shall cease to have effect on the expiration of a period of sixty years from the commencement of Constitution.[4] Members of this community enjoyed the facilities of reservation of posts in certain Central Services and educational grants for a period of 10 years after the commencement of the Constitution.[5]

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[1]Webster, p. 81
[2]Oxford, p. 51
[3]Art. 366(2)
[4]Arts. 331 and 333 substituted by Constitution (Seventy Ninth Amendment) Act 1999
[5]Arts. 336 and 337 and Basu, Vol. N, pp. 121 & 129

ANNUAL FINANCIAL STATEMENT

A statement made by the Minister incharge of Finance in the legislature containing the probable income and expenditure of the Government for any year; familiarly known as Budget.[1]

In U.K., this statement is made by the Chancellor of the Exchequer in the House of Commons when he has completed his estimate of the probable income and expenditure for the finanical year.[2] It contains his view of the resources of the country; it declares whether the burdens upon the people are to be increased or diminished.[3]

In India, the Annual Financial Statement is caused to be laid by the President before both Houses of Parliament.[4] The Annual Financial Statement or the Statement of the Estimated Receipts and Expenditure of the Government of India in respect of each financial year, known as the "Budget", is presented to Lok Sabha on such day as the President may direct.[5] It is presented in two parts *viz.* Railway Budget pertaining to Railway Finance, and the General Budget which gives an overall picture of the financial position of the Government of India excluding Railway.[6] Simultaneously, a copy of the respective Budgets is laid on the Table of Rajya Sabha.[7] The estimates show separately, (i) the sums charged upon the Consolidated Fund and sums not so charged and (ii) expenditure on revenue account and other expenditure.[8]

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[1] May, p. 788
[2] *Ibid.* 788
[3] *Ibid.* 788
[4] Art. 112
[5] Rule 204
[6] Kaul & Shakdher, p. 688
[7] *Ibid.* p. 699
[8] Basu, p. 692

ANSWERS (TO QUESTIONS)

Reply; defence;[1] a reply to a question, argument, letter etc.;[2] response, reply; defence;[3] reply, counter speech;[4] in Parliament answers given by Ministers to questions asked by members on the floor of the House.

The answers may be either oral or written; in the House of Commons, if a member does not distinguish his question by an asterisk or if he is not present to ask it etc. the Minister concerned causes an answer to be printed in the official Report; in the event of a discrepancy between the texts of the answers sent to the member and the official Report, the text sent to the member is considered the authentic reply.[5]

An oral answer is confined to the points contained in the question with such explanation only as would make the answer intelligible; however, a certain latitude is permitted to the Ministers of the Crown by permitting them to read out material and quotations from speeches at question time.[6]

In the Indian Parliament, oral answers are given to Questions distinguished by an asterisk while those not distinguished by an asterisk are listed for written answers;[7] supplementary questions are asked for further elucidating any matter of fact regarding which an answer has been given, if permitted by the Speaker.[8] Normally the first hour of every sitting is allotted for answering questions.[9] For the purpose of answering questions in the House, the various Ministries have been divided into five groups and each group has been allotted fixed days for answering questions in Lok Sabha.[10]

The answers given in the House should be complete and if the Speaker is satisfied that an answer is incomplete, he may direct the Minister to give a complete answer.[11] If the answer to a question, oral or written needs elucidation on a matter of fact, the Speaker may allow half-an-hour discussion thereon after-wards.[12]

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[1] Oxford, p. 47
[2] Webster, p. 61
[3] Anderson, p. 61
[4] Wharton, p. 65
[5] May, p. 345, 292
[6] *Ibid.* p. 293
[7] Rule 36
[8] Rule 50(2)
[9] Rule 32
[10] Rule 38 & Handbood p. 7
[11] Direction 13A
[12] Rule 55(1)

ANTICIPATION

To expect, to feel beforehand, to make happen earlier than due; [1] a discussion, consideration beforehand;[2] taking before hand or before a time;[3] doing or taking a thing before the appointed time;[4] a general principle recognized in Parliaments that a member must not discuss matters which are the subject of a forthcoming debate.[5]

In House of Commons, U.K., the rule is that a matter must not be anticipated if it is contained in a more effective form of proceeding by which it is sought to be anticipated, but may be anticipated if it is contained in an equally or less effective form; *e.g.* a bill or other order of the day is more effective than a motion, a substantive motion is more effective than a motion for the adjournment of the House.[6] A matter already appointed for consideration by the House cannot be anticipated by a motion or an amendment.[7] However, in determining whether a discussion is out of order on this ground, the Speaker shall have regard to the probability of the matter anticipated being brought before the House within a reasonable time.[8]

In India Parliament, a member seeking to raise discussion on any matter of which notice has already been given by another member or Minister is not permitted to do so on the ground of anticipation; however, in determining whether a notice is out of order on the ground of anticipation the probability of the matter being brought before the House within a reasonable time is taken into consideration by the Speaker before deciding about the admissibility of discussion.[9]

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[1] Webster p. 63
[2] Oxford p. 50
[3] Anderson, p. 62
[4] Wharton, p. 66
[5] Wilding & Laundy, p. 21
[6] May, p. 335
[7] *Ibid,* p. 334
[8] *Ibid,* p. 335
[9] Rule 343 and Kaul & Shakdher, p. 909-10

APPEAL

Call to (higher tribunal) for deliverance from decision of lower;[1] the transference of a case to higher court for rehearing;[2] judicial examination of the decision by a higher court of the decision of an inferior court.[3]

The right of appeal is only by statue; it is the right of entering a superior court and invoking its aid and interposition to redress the error of the court below.[4]

In U.K., an appeal lies from the High Court to the Court of Appeal, from the Court of Appeal to the House of Lords.[5]

In U.S.A., the Supreme Court has no appellate jurisdiction in ordinary civil cases, its jurisdiction being confined to constitutional matters. The Australian High Court possesses a general appellate jurisdiction, but further appeal lies to the Privy Council. In Canada, the final court of appeal is the Supreme Court.[6] In India, an appeal lies to the Supreme Court from any judgement, decree or final order of a High Court whether in a civil, criminal or other proceeding, but it is allowed only if the High Court certifies that the case involves a substantial question of law as to the interpretation of the Constitution of India;[7] however, the Supreme Court has the discretion to grant special leave to appeal from any judgement, decree, determination, sentence or order in any case or matter passed or made by any court or tribunal in the territory of India except the judgements or orders passed by any court constituted under any law relating to the Armed Forces.[8]

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[1]Oxford, p. 54
[2]Webster, p. 70
[3]Wharton, p. 67
[4]Stround, p. V.1-p.148
[5]Wharton, p. 67
[6]Basu (6th edition), Vol. G, p. 268-269
[7]Art. 132 (1) and (2)
[8]Art. 136

ARREST

Legal apprehension;[1] to seize or take into custody by authority of the law;[2] 'arrest' is when one is taken and restrained from his liberty;[3] the restraining of the liberty of a man's person in order to compel obedience to the order of a court of justice, or to prevent the commission of a crime, or to ensure that a person charged or suspected of a crime may be forthcoming to answer it.[4]

Freedom from arrest in cases of civil actions is enjoyed by members of Legislatures. This privilege is enjoyed by a member of the House of Commons for forty days after every prorogation, and forty days before the next appointed meeting of the House. A member of House of Commons is entitled to this privilege even before taking oath. Peers are privileged from arrest in civil cases at all times.[5] However, it does not confer immunity from arrest on any criminal charged.[6]

In India, a person arrested shall be, informed of the grounds of arrest as soon as possible and shall not be denied the right to be defended by a legal practitioner of his choice; similarly, he shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest;[7] this safeguard, however, is not available to persons arrested under a law of preventive detention or an enemy alien;[8] it is also not available to persons arrested for non-payment of income tax arrear[9] and persons removed from a brothel.[10]

Members of Indian Parliament and State Legislatures enjoy the freedom from arrest in civil cases; it extends for a period of forty days prior to the meeting; and forty days after the meeting; does not extend to criminal offences or the cases under Preventive Detention Act or under Defence of India Act;[11] however, when a member is arrested or detained, the authority concerned is required to intimate immediately the fact of arrest; as well as the reasons for the arrest and the place of detention to the Speaker/Chairman of Rajya Sabha.[12]

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[1] Oxford, p. 63
[2] Webster, p. 82
[3] Stroud, Vol. I, p. 175
[4] Wharton, p. 87
[5] May, p. 106 & 107
[6] Wilding & Laundy, p. 599
[7] Art. 22(1) and (2)
[8] Art. 22(3)(a) and (b)
[9] 1957 SC. R. 970
[10] AIR, 1953 Cal. 522
[11] Kaul & Shakdher, p. 285
[12] *Ibid,* p.252; Rule 222 of Rajya Sabha

ATTORNEY - GENERAL

Chief Law Officer of a country; legal adviser to the Chief Executive.[1]

In U.K., Attorney-General is a Minister and a member of the House of Commons;[2] legal representative of the Crown in Supreme Court; *ex-officio* head of the Bar for the time being; attends in judicial capacity and reports on the claims when House of Lords sits in Committee of Privileges; deals with legal questions on behalf of Government in House of Commons;[3] precluded from private practice during tenure of office.

In U.S., Attorney-General in President's Cabinet is distinct from Attorney-General in each State; is head of Department of Justice; tenders legal opinion to the President and heads of departments; not bound by law to give legal opinion at the call of the Congress; manages suits before Supreme Court. Attorney-General in each State advises the Governor and represents the State in litigation.[4]

In India, Attorney-General is appointed by the President and holds office during the pleasure of the President; gives advice to Government of India on legal matters and performs duties of legal character that are referred or assigned to him by the President; has right of audience in all courts in India. He is not a member of Parliament or the Council of Ministers but has the right to speak and participate in the proceedings of either House or any joint sitting of the Houses or any committee of Parliament of which he may be named a member with no right to vote.[5] He can attend the House on his own or at the request of the Government or on a motion passed by the House or in response to a request by the Speaker.[6] He also gives his opinion on matters before a House of Parliament at the request of the Government or of the Presiding Officer of the House or on a motion passed by the House.[7] He does not advise or hold briefs for private parties.[8]

[For similar functionary in the States in India *see* Advocate-General]

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[1] Webster, p. 95
[2] Wilding and Laundy, pp. 425-26
[3] Wharton, p. 95
[4] Anderson, p. 93 and Dunner, p. 36
[5] Art. 76 & 88
[6] Kaul & Shakdher, p. 155
[7] Kaul & Shakdher, p. 154
[8] *Ibid,* p. 154

B

BACK BENCHER

Occupant of a seat in the House of Commons or similar assembly; used for a member not entitled to a front bench seat[1]; Private Member who does not hold any ministerial office.[2]

The members of British Parliament or of those based on British pattern who are not among the party leadership.[3]

Back bencher neither holds office in Government nor belongs to the inner councils of the party in opposition; he occupies any but the two front benches in the Chamber; though the member of a party he is generally regarded as being freer to differ from its policy than his colleagues on the front benches.[4]

In the Indian Parliament, back bencher is more a journalistic term than a procedural one; the term, as is commonly understood, refers to members who are not prominent participants in the day to day proceedings of the House.

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[1]Oxford, pp. 83-84
[2]Wilding and Laundy, p. 33
[3]Dunner, p. 40
[4]Abraham and Hawtrey, p. 21

BACKWARD CLASSES

Classes slow in development;[1] socially and educationally backward classes within the territory of India.[2] Their determination is left to the State.[3] The State can make provision for reservation of appointments or posts for any such class if it is not adequately represented in its services.[4] The President is empowered to appoint a Commission for investigating the conditions of socially and educationally backward classes and for recommending steps for improving their condition and grants to be made available for this purpose.[5] Such a commission has been set up under the National Commission for Backward Classes Act 1993 for identification of the Backward Classes and to make their reservations for appointments under Government of India.[6] The lists of OBC are prepared by the Central Government and are revised after the expiry of every 10 years.[7]

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[1]Webster, p. 108
[2]Art. 340
[3]Ram Krishna *Vs.* State of Mysore, AIR Mys. 338
[4]Art. 16(4)
[5]Art. 340
[6]National Commission for Backward Classes Act 1993
[7]Section 11 of the National Commission for Backward Classes Act 1993

BALLOT

Small ball, ticket or paper used in secret voting;[1] a ticket, paper etc. by which a vote is registered[2]; lot-drawing[3]; drawing of lots used in Parliament to determine precedence among members desiring a share of Parliamentary time available for certain kinds of business.[4]

In the House of Commons, ballots are held to allot the limited time available in Parliament to Private members[5]; ballots are held in the case of Private Members' Motions and Bills; for motions it is held in the House itself; when the Speaker orders the ballot to be taken, the Clerk Assistant draws out of the ballot box numbered slips of paper one by one and calls the number drawn out. Thereupon the Speaker announces the name of the member. Ballot for Private Members Bills is taken at a time and place fixed by the Speaker and is conducted by the Chairman of Ways and Means.[6] A ballot is also held every week by the Speaker to determine the right to choose the subject and initiate the discussion during the interval of half-an-hour between the moving of the daily adjournment motion and the compulsory adjournment of the House on Mondays, Tuesdays, Wednesdays and Fridays.[7]

Ballot is held in Lok Sabha for determining the order of precedence of notices of Bills and Resolutions, Half-an-hour Discussions, Calling Attention Notices, Questions including Short Notice Questions, Adjournment Motions etc.[8] In the case of Half-an-hour Discussions and Calling Attention Notices, ballots are held after admission of notices. In case of Private Members' Bills ballot is held of such bills which have been introduced and in respect of which no further motion has been made or carried. In the case of questions and Private Members' Resolutions the names of members are balloted first and the notices are listed in the order of priority determined by the ballot; *inter se* priority of notices under the same rule received at the same time is also determined by ballot. Ballot is held through computerised auto-ballot systems in the presence of as far as possible one or more members and in case no sitting member is available in the presence of a senior officer of the Secretariat.[9]

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[1] Oxford, p. 89
[2] Webster, p. 113
[3] Oxford, p. 89
[4] Abraham and Hawtrey, p. 21
[5] May, p. 495
[6] *Ibid,* p. 495
[7] *Ibid,* p. 325
[8] Rules 27, 28, 54, 55, 197
[9] Handbook, p. 11

BAR OF THE HOUSE

The place inside the House of a Legislature where the persons who commit a breach of privilege or contempt of the House are summoned for administering admonition or reprimand[1].

In the House of Commons, the Bar consists of two rods which can be drawn across the end of the benches to form the boundary of the House opposite the Speaker's Chair[2]; the offender is brought here by the Serjeant-at-Arms and is reprimanded or admonished by the Speaker in the name and by the authority of the House[3]; if the offender is a member of the House, he receives the reprimand or admonition standing in his place; however, if he is in the custody of the Serjeant-at-Arms, he is reprimanded at the Bar of the House[4]; in the House of Lords, the bar is a wooden barrier which excludes persons who are not peers[5]. When the House of Commons is summoned to the House of Lords to hear a speech from the throne, the Speaker alongwith his members goes to this Bar[6].

In the Lok Sabha, the Bar consists of a wooden bar placed between two pillars near the door which opens into the central aisle facing the Speaker and which connects the benches on either side of the aisle. Before an offender is brought to the Bar of the House, the Speaker makes an announcement about it in the House and emphasises the solemnity of the occasion and asks the members to keep total silence in order to maintain the dignity and authority of Parliament and to emphasise the significance of the reprimand. Thereafter he orders the Watch and Ward Officer [now Joint Secretary Security] to bring the offender in. He is brought in and he stands at the Bar. The Speaker then reads out the reprimand after which he asks the offender to withdraw[7].

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[1]May, p. 139, Kaul & Shakdher, p. 261
[2]Wilding & Laundy, p. 37
[3]May, p. 139
[4]*Ibid* p. 139
[5]Abraham & Hawtrey, p. 24
[6]*Ibid.*
[7]Lok Sabha Debates, Vol. LVII, August 29, 1961, pp. 5501, 5502.

BEGAR

Forced labour[1]; labour or service exacted by Court or a person in power without giving remuneration for it[2].

An Indian practice of compelling tenants to render free service to their landlords under the old Zamindari system.[3]

Begar is similar to the involuntary servitude in U.S.A.; it was abolished under the Thirteenth Amendment to the Constitution in 1865; the Japanese and West German Constitutions too have abolished involuntary servitude.[4]

Begar and other forms of forced labour have been abolished in India.[5]

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[1] Art. 23(1)
[2] Vasudevan *vs.* Mital, A. 1962, Bombay
[3] Basu, Vol. D, p. 185
[4] *Ibid*, pp. 182-83
[5] Art. 23(1)

BILL (S)

A draft of a law proposed to a law making body[1]; draft of proposed Act of Parliament[2]; the draft or form of an Act presented to a legislature but not enacted[3]; a draft of a legislative proposal put in the proper form which when passed by both the Houses of Parliament and assented to by the President becomes an Act[4].

In England, a Bill may be introduced either in the House of Commons or in the House of Lords but a great majority are introduced in the Lower House; generally, no Bill involving finance may be introduced in the House of Lords and in practice only routine and non-controversial legislation is initiated in the Upper House[5].

In the Indian Parliament, a Bill can originate in either House of Parliament. However, a money Bill and a Bill containing *inter alia* provisions attracting clause(1) of article 110 of the Constitution cannot be introduced in Rajya Sabha[6]. Each Bill consists of (1) the title (2) the enacting words, called the enacting formula, and (3) the body of the Bill, divided into clauses[7]. It undergoes three readings, namely the first reading, the second reading and the third reading before it is passed[8]. Introduction of a Bill is known as first reading of the Bill. Second reading consists of general discussion of the principles of the Bill and clause-by-clause consideration. The third reading is confined to limited discussion for passing or rejection of the Bill as a whole. For passing an ordinary Bill a simple majority of Members present and voting is necessary. But in case of a Bill to amend the Constitution a majority of the total membership of the House and a majority of not less than two-thirds of the Members present and voting is required[9].

[For Private Members' Bills *see* under Private Members' Business].

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[1]Webster, p. 146
[2]Oxford, p. 117
[3]Anderson, p. 120
[4]Handbook, p. 71
[5]Wilding & Laundy, p. 45
[6]Art. 107
[7]Kaul & Shakdher, p. 534
[8]*Ibid,* p. 522
[9]Art. 368

BILLS

(i) Annexure to

An appendix of or a codicil to a legislative document or international agreement; a collection of supplementary matter[1].

The practice of appending the text of the section(s) of the Act(s) which a Bill seeks to amend as 'annexure' commenced with a direction issued by the Speaker in this regard in the House on 14 August, 1950[2]. Annexure, however, is not added to a secret Bill. When annexure is bulky, it is not printed with the Bill, but copies of the original Act(s) are supplied by the Minister concerned for use of members.

Annexure does not form part of a Bill and it is neither discussed nor voted upon in the House.

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[1] Webster, p. 87
[2] Kaul & Shakdher, p. 543

BILLS

(ii) Appropriation

Act of devoting or reserving for a special or distinct purpose or of destining to a particular end; anything set aside especially money for a specific use.[1]

Disposition of public moneys from the treasury by law; an authority from the Legislature in legal form to apply sums of money to specified objects or demands.[2]

In U.K., Appropriation Act is an Act to grant aids and supplies to the Crown; annual statute which gives legal force to main estimates agreed to in Parliament; introduced in House of Commons as Consolidated Fund (Appropriation) Bill and differs from other Consolidated Fund Bills in that it contains schedules specifying the purpose for which the money is to be used.[3]

In India, no money can ordinarily[4] be withdrawn from the Consolidated Fund except under appropriation made by law. Appropriation Bill is introduced in House of the People immediately after the demands for grants or supplementary demands for grants or demands for excess grants have been passed by the House; Bill provides for appropriation out of Consolidated Fund of all money required to meet the grants made by the House as well as the expenditure charged on the Fund as specified in the schedule to the Bill; Bill is a money Bill and cannot be introduced in the Council of States[5], introduction of Bill in the House cannot be opposed[6]; no amendment can be proposed to Bill which will have effect of varying the amount or altering the destination of any grant made by the House or of varying the amount of any expenditure charged on the Fund.[7]

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[1]Webster, p. 72, pp. 56
[2]Anderson, p. 69
[3]Wilding & Laundy, pp. 23 & 24
[4]Arts. 114(3), 115 & 116
[5]Arts. 109(1) & 110
[6]2nd proviso to rule 72
[7]Art. 114(2)

BILLS

(iii) Assent to

Consent; agreement; acquiescence or concurrence; approval or declaration of willingness; official agreement to a proposal.[1]

Ratification; Sovereign's formal acquiescence in a measure passed by Legislature.[2]

In U.K., Royal Assent to a Bill is signified by the Crown in person or by Lords Commissioners or it may be announced by the Lord Chancellor and the Speaker of the House of Commons in their respective Houses. The power of the Crown to veto a Bill passed by Parliament has become obsolete with the advent of Cabinet system in 1707[3]. In Canada and Australia, Royal Assent is signified by the Governor-General in the Queen's name. He may withhold his assent or reserve the law for Queen's pleasure.

In India when a Bill passed by Parliament is presented to the President, he either gives or withholds his assent. He may return it, if it is not a Money Bill, to Parliament for reconsideration. If a Bill so returned is passed by Parliament with or without amendment recommended by the President and presented to him again, the President cannot withhold his assent to it[4]. He invariably gives his assent to constitution amendment Bill passed by Parliament by special majority. The President also either gives or withholds his assent to a Bill passed by a State Legislature and reserved for the consideration of him by the Governor of that State. He may direct the Governor to return the Bill to the State Legislature for reconsideration. If the Bill so returned is passed by the State Legislature again within six months, it will be presented to the President again for his consideration.[5]

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[1]Webster, p. 88, Oxford (Learner) 1, p. 46
[2]Anderson, p. 79
[3]Wilding and Laundy, p. 653
[4]Art. 111
[5]Arts. 200 and 201

BREACH OF PRIVILEGE

Disregard of any of the privileges, rights and immunities either of the Members of Parliament Individually or of either House of Parliament in its collective capacity or of its committees; also includes action which obstruct the House in the performance of its functions and thereby lower its dignity and authority such as disobedience of its legitimate orders or libel upon itself, or its member or officers[1] which are called contempt of the House (for details *see* 'Privileges')

Some typical acts which constitute breaches of privilege are (1) disrespect to any member of the House, as such, by person not being a member, (2) disrespect to the House collectively, (3) disorderly conduct by members of the public seated in the galleries of House, (4) speeches or writings defamatory of the House, its Committees or its Members in respect of their conduct as Members, (5) attempts to influence Members in their Parliamentary conduct by bribes, threats or other improper means, (6) tampering with witnesses, (7) resistance to or obstruction of officers of the House in the execution of their duties.[2]

The power to punish breaches of privileges is essential to the authority of any legislature. Both Houses of British Parliament possess this power inherently as High Court of Parliament. The power of commitment has always been held by the House of Lords and it was claimed by the House of Commons in the 16th century. While Commons can commit the offender only for the duration of the Session, the Lords are not so restricted. The Lords can impose fine, but the power of Commons in this respect is doubtful. During the last three centuries Commons have not imposed fines.[3]

The power to punish breaches of privileges is enjoyed by all Parliaments of the Commonwealth.[4]

The two Houses of Indian Parliament as well as the State Legislatures have the power to punish breaches of privilege and contempt of the House.[5] The privileges, rights and immunities of the members of Indian Parliament and State Legislatures are identical with those of the House of Commons; the power to punish for contempt too is identical with that of the latter.[6] A prisoner can be committed only for the duration of the Session and is automatically

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[1]Kaul & Shakdher, p. 212 and Abraham & Hawtrey, p. 42
[2]Abraham & Hawtrey, p. 42
[3]May, pp. 123-138 and Wilding & Laundy, p. 595
[4]*Ibid,* p. 595
[5]Kaul & Shakdher, p. 257 & Art. 105(3) & 194
[6]Kaul & Shakdher, p. 257

entitled to release when the House is prorogued. However, if the House feels that an offender has not been sufficiently punished, he may be committed again in the next session and detained until the House is satisfied[7]; unlike the House of Lords, the Upper House of Indian Parliament does not enjoy the power to commit the offender for an unrestricted period. Both Houses have the same powers in this regard[8].

Some of the acts which do not constitute breaches of privilege are (i) 'giving of premature publicity to matters connected with the business of the House', (ii) incorrect statements made by Ministers, (iii) leakage of budget proposals, (iv) statements by Ministers on matters of public interest made at party meetings, (v) circulation of documents intended for Members among non-members and the Press first, and (vi) unbecoming behaviour of a Member when the President adresses both Houses of Parliament; these acts are breaches of propriety but not of privilege or contempt of the House.[9]

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[7] *Ibid,* p. 259

[8] Art. 105 read with Kaul & Shakdher, p. 256 & 259 and Wilding & Laundy, p. 595

[9] Kaul & Shakdher, PP. 290, 291, 292, 293

BUDGET

A Plan or schedule adjusting expenses during a certain period to the estimated or fixed income for that period;[1] *(a) a periodic assessment of and programmes for national revenue and expenditure, proposed by the Government and presented to Parliament;[2] annual estimate of revenue and expenditure of a country.[3]

In U.K. budget is presented soon after the beginning of the financial year by the Chancellor of Exchequer. His annual financial statement known as Budget deals with resources of the country, estimates of probable income and expenditure and fresh tax proposals.[4] Until a new budget procedure was evolved in 1967, Budget was presented by Chancellor of Exchequer in Committee of Ways and Means which deliberated on resolutions proposed by the Chancellor regarding income-tax and imposition or alteration of any duty. Finance bill is based on resolutions passed by this Committee. Changes in taxation are guarded in secrecy till the conclusion of Chancellor's statement.[5]

Under the new budget procedure, the Committee of Ways & Means is abolished. As soon as Chancellor delivers his speech a resolution of Provisional nature is passed by the House. The Budget debate starts with discussion on first Budget resolution and subsequently the remaining budget resolutions are taken up one by one.[6]

In India too budget refers to the statement of the estimated receipts and expenditure of the Government of India known as annual financial statement; it is caused to be laid before both Houses of Parliament by the President in respect of every financial year on such day as he may direct.[7] Budget is presented in two parts *viz.,* Railway Budget dealing with Railway finances and General Budget reviewing the financial position of Government of India.

By convention, General Budget was presented on the last working day of February each year at 5 P.M. and the Railway Budget in the third week of February. However, now the General Budget is being presented at 11 00 hours on any day which is convenient to the Government and the Railway Budget is presented a few days before the General Budget. Simultaneously, a copy each of the two budgets is laid on the Table of Rajya Sabha.[8] In election year the Budget is presented twice —first to seek a vote on account

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[1] Webster, p. 190
[2] Chambers 21st Century Dictionary, p. 183
[3] Oxford, p. 155
[4] May, p. 788
[5] Wilding & Laundy, p. 61
[6] *Ibid,* p. 62
[7] Art. 112 and Rule 204 (LS)
[8] Kaul & Shakdher, p. 700-01

and then the full-fledged budget.[9] The Railway Budget is presented to Lok Sabha by Minister of Railways and General Budget by Minister of Finance. The Finance Minister's Budget speech consists of two parts. Part 'A' deals with general economic survey of the country and Part 'B' contains tax proposals.

Immediately after presenting General Budget, Minister of Finance introduces in Lok Sabha Finance Bill to give effect to financial proposals, General budget is kept secret till it is presented to Lok Sabha since it contains tax proposals.

No discussion on the Budget takes place on the day it is presented to the House. As per practice in Lok Sabha, the General Budget is discussed after a week or 10 days of its presentation while railway Budget is discussed after a week or so of its presentation. The discussion on General Budget takes place in three stages, namely, (1) general discussion on General Budget, (2) discussion on demands for grants and (3) consideration and passing of Appropriation Bill and Finance Bill. Actually since 1993 the Demands for Grants are considered by the Departmentally related Standing Committees. After the general discussion on the Budget in both the Houses is over the Houses are adjourned for a fixed period. The concerned Departmentally related Standing Committees consider the Demands for Grants for the concerned Ministries during the aforesaid period and submit their report about each Ministry separately to the House. The Demands for Grants are then considered by the House in the light of the reports of the Committee.[10] Budget discussions afford opportunity to Members to review financial policies pursued by the Government of India.[11]

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[9] *Ibid,* pp. 700-01
[10] *Ibid,* pp. 706-07
[11] *Ibid,* p. 705

BUDGET, LEAKAGE OF

Premature disclosure of the proposals contained in the budget; treated as a serious affair as budgetary proposals are kept a closely guarded secret.[1]

In U.K., budget proposals are treated as official secret until they are placed before the House of Commons; the Government is bound to keep them as a secret; the leakage of these proposals, however, does not constitute a breach of privilege of the House; but this does not prevent the House from enquiring into the conduct of a Minister in relation to the leakage.[2]

In India too budgetary proposals are kept a secret and leakage of budget is treated exactly as in the House of Commons; it is not a matter of breach of privilege of the House;[3] but Parliament has ample power to enquire into the conduct of Minister in relation to the leakage and the circumstances in which the leakage occurred.[4]

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[1]G.B. Pant's speech, p. 3151, Lok Sabha Debate of March 20, 1956. (Vol. 2 Part. II)
[2]Lok Sabha Debates, 19th March, 1956
[3]Kaul & Shakdher, p. 291, 703
[4]Lok Sabha Debates, March, 10, 1959, Coln, 5342 and 5343

BULLETIN

Short official statement of public event or news;[1] a brief official statement about a matter of public concern;[2] (b) an official notice of a public transaction or matter of public importance;[3] a brief statement of the latest news as in a radio broadcast.[4]

A regular Parliamentary publication containing general information concerning Parliament and other matters.

Both Houses of Indian Parliament publish bulletins which contain (a) brief record of the proceedings of the House at each of its sittings; (b) information on any matter relating to or connected with the business of the House or other matter which in the opinion of the Speaker may be included therein; and (c) information regarding Parliamentary Committees.[5]

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[1]Oxford, p. 156
[2]Webster, p. 192
[3]Wharton, p. 150
[4]Webster, p. 192
[5]Rule 2(1)

BUSINESS, LIST OF

The agenda for a day's sitting of the legislature; also called Agenda paper[1] prepared in the order in which items of business[2] stand in it.

In the House of Commons, it is called order paper; published every morning under the authority of the Speaker; contains the agenda of the sitting for the current day; an item which requires notice but is omitted from this paper is not taken; the items contained therein are (1) Private Business (2) unopposed returns (3) starred questions (4) notices of Public Bills and motions (5) orders of the Day and Notices of Motions (6) Notices of the various Committees on Public matters (7) unstarred questions and (8) Remaining Orders of the day and notices of Motions.[3]

In the Indian Parliament, it is known as List of Business, prepared under the authority of the Speaker by the Secretary-General and a copy thereof is supplied to every member; contains the items of business, Govt. and Private members', scheduled to be taken up on a particular day; the first item generally is Questions; Oath or affirmation and obituary reference, whenever listed, precede Questions; List of Questions though part of List of Business, is issued separately; List of Business, the List of Questions, the List of Amendments, cut-motions and the bills, all combined form the Order Paper for the day;[4] in the House of Commons these papers are collectively called the Vote.[5]

The Speaker has the discretion to permit consideration of an item not included in the List of Business. He does so after giving due consideration to the wishes of the House and urgency of the business to be transacted.[6]

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[1]Wilding & Laundy, p. 511
[2]Handbook, p. 73
[3]May, pp. 217-18
[4]Kaul & Shakdher, pp. 431, 432
[5]May, p. 216 & Wilding Laundy, p. 775
[6]Rule 31(2) & Kaul Shakdher, p. 432

BUSINESS OF THE HOUSE

The relative order of all the items of business in the House of a Legislature to be taken up on a particular day.[1]

In the House of Commons, it is not rigidly fixed;[2] all items mentioned in the List seldom occur at the same sitting; the order is departed from on occasions for the convenience of the House[3]; business consists of Government business, Private members' business and the business transacted in Opposition time.[4]

In the Indian Parliament, the business of the House is divided into (1) Government Business; and (2) Private Members' Business[5]; no system of Opposition Time as in the House of Commons where twenty allotted days in each session are kept at the disposal of the Leader of Opposition and the matters selected on these days have precedence over Government Business[6]; Government Business in Lok Sabha is arranged by the Secretary-General in such order as the Speaker in consultation with the Leader of the House determines; this order is varied only when the Speaker is satisfied that there is sufficient ground for such variation[7]; Government Business for a whole week is announced in advance in the House by the Minister for Parliamentary Affairs.[8]

Private members' Business is transacted during the last two and a half hours every Friday or such other day as is allotted for that purpose.[9] Private Members also get time to initiate business during Government time, *e.g.* Questions, Calling Attention Notices, Adjournment Motions etc[10].

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[1] Wilding & Laundy, p. 64
[2] *Ibid,* p. 64
[3] Abraham & Hawtrey, p. 47
[4] May, pp. 270 and 271
[5] Kaul & Shakdher, p. 407
[6] May, p. 271 and Kaul & Shakdher, p. 427
[7] Rule 25 (LS) & Proviso
[8] Kaul & Shakdher, p. 428
[9] Rule 26 (LS) & Proviso
[10] Kaul & Shakdher, p. 417

C

CABINET—COMPOSITION AND FUNCTIONS OF

A body of official advisers to the Chief Executive of a nation—usually the heads of various Governmental Departments[1]; Council room of inner circle of ministers controlling Government policy[2]; a private and confidential assembly of the most considerable ministers of state (all being Privy Councillors) to concert measures for the administration of public affairs[3]; Privy Councillors who actually transact the immediate business of the Government and assemble for that purpose from time to time as the public exigencies require.[4]

In U.K., Cabinet consists of the Prime Minister and such of his colleagues as he may select from among leading legislators.[5] Executive and legislative powers are vested in Cabinet which is individually and collectively responsible to Parliament. Cabinet functions as long as it enjoys confidence of Parliament[6]; determines policy to be submitted to Parliament and exercises overall control over administration. Proceedings of Cabinet are secret. It delegates considerable amount of its work to its Committees since it is heavily burdened with executive responsibility.[7]

In many Commonwealth countries, Cabinet is modelled on British pattern. In Canada, composition of Cabinet is influenced by regional considerations. Australia follows the British practice of including only selected Ministers in the Cabinet.[8]

In India, Cabinet is an inner body within the Council of Ministers which is responsible for formulating the policy of the Government. The Council of Ministers is collectively responsible to Lok Sabha; it is headed by the Prime Minister who determines which of the Ministers should be members of the Cabinet. Only Cabinet Ministers have a right to attend its meetings. Ministers of State attend its meetings only on a special invitation. The total number of Ministers, including the Prime Minister, in the Council of Minister should not exceed fifteen per cent of the total number of members of the House of the people.[9] Cabinet acts in the name of Council of Ministers and exercises all the power on its behalf. It ensures coordination in the functioning of various Ministers in carrying out the policy of the government and chalks out legislative programme for approval by Parliament.[10]

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[1]Webster, p. 202
[2]Oxford, p. 165
[3]Wharton, p. 155
[4]Mozley, p. 42
[5]Wilding & Laundy, p. 67
[6]Dunner, p. 73
[7]Wilding & Laundy, pp. 70-71
[8]*Ibid,* p. 71
[9]Kaul & Shakdher, p. 133 and Art. 75, 75(1A) (substituted by 91st Constitution Amendment)
[10]*Ibid.* p. 135-36

CABINET, SHADOW

A body of opposition leaders meeting from time to time and ready to take office[1]; in British Parliament a group technically knows as Consultative Committee[2]; the institution of shadow cabinet came into being as early as 1876 in British Parliament; formed by the leader of the opposition consisting of his principal colleagues in both Houses for the purpose of assuming office in the event of resignation of the Government.[3] Each member of the shadow cabinet is assigned a particular sphere of activity in which he critically examines the Government policy and administration for directing criticism of Government policy and outlines alternative policies. Members of shadow cabinet get precedence in asking questions and in debate.[4]

The leader of the opposition is a shadow Prime Minister and he has to be prepared to take up the responsibility of forming a government if the government resigns or is defeated. His task though not so difficult as that of the Prime Minister is of sufficiently great public importance because he has to maintain a team-shadow cabinet ready to take over administration.[5] The practice of shadow cabinet has not come into vogue in India so far.

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[1] Chambers p. 914
[2] Wilding & Laundy, p. 691
[3] Jennings, p. 81
[4] May, pp. 211-212
[5] Kaul & Shakdher, p. 142, 143

CALLING ATTENTION

The act of requiring somebody to give his attention to[1]; to point out[2]; a Parliamentary procedure to call the attention of the Government to a matter of urgent public importance.

In the House of Commons, a matter of urgent public importance which should have urgent consideration is discussed under an adjournment motion[3]; however, Calling Attention properly so-called as an item of business or a procedure is not found there.[4]

In the Indian Parliament, a Member may, with the previous permission of the Speaker, call the attention of a Minister to a matter of urgent public importance and request a statement thereon;[5] no debate is permitted on the statement and each member in whose name the item stands in the List of Business can ask clarificatory question[6]; urgency and public importance are the two tests of admissibility of this item of business; the power of the Speaker to allow or disallow a notice of this item is uncontrolled[7]; only matters concerning the Government of India can be raised through a Calling Attention Notice; the notice must be given on the same day on which a matter has arisen or become publicly known.[8]

In the Lok Sabha not more than five members whose names are shown in the List of Business are allowed to ask clarificatory questions.[9]

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[1] Oxford (Learner), p. 20
[2] Chambers, p. 137
[3] May, p. 309
[4] *Ibid,* p. 284 (S.O. 24)
[5] Rule 197 (LS)
[6] Rule 197(2), Proviso (LS)
[7] Kaul & Shakdher, pp. 485-86
[8] *Ibid,* p. 487
[9] Rule 197(2) proviso (LS)

CANDIDATE, DEATH OF

Leads to the postponement of election. In U.K., in the event of death of a candidate after filing nomination and before the result of the election, the returning officer countermands poll or if polling has started, abandons it; the proceedings start afresh after 28 days of the death of the candidate.[1]

In India too in the event of death of a candidate before the commencement of the poll, the returning officer, upon being satisfied about the death of the candidate adjourns the poll to date to be notified later and reports the fact to the Election Commission and also the appropriate authority. After this the proceedings of election start afresh for a new election.[2]

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[1]May, p. 30

[2]Representation of Peoples Act, 1951, Sec. 52

CENSURE MOTION

A motion moved against the government censuring its policy in some direction or an individual minister or ministers of the Government.[1]

In the House of Commons, a motion of no-confidence in the Government is called a censure motion[2]; it is usually moved by the Leader of Opposition[3]; the Government is under obligation to allow time for this motion and it invariably allots an early day for the discussion[4]; adoption of the motion would result in the resignation of the government or dissolution of the Lower House[5]; however, a vote of censure against a particular minister has no such consequence.[6]

In France too, a motion of no-confidence is called the motion of censure and when it is adopted by the National Assembly, the Government has to resign.[7]

In Lok Sabha, a censure motion is distinct from no-confidence motion. It can be moved against Council of Ministers, an individual Minister or a group of ministers for their failures; it may express regret, indignation or surprise of the House at such failures.[8] A no-confidence motion can be moved against the entire council of ministers.

There are no specific rules for the moving of a censure motion. It is governed by the rules applicable to motions in general.[9] It is the discretion of the Government to find time and to fix a date for its discussion in consultation with Business Advisory Committee.

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[1]Wilding & Laundy, p. 775; Kaul & Shakdher, p. 604
[2]May, p. 280
[3]Wilding & Laundy, p. 775
[4]May, p. 280 and Dunner, p. 83
[5]Dunner, p. 83
[6]Basu, Vol. E (6th edn.) p. 398
[7]*Ibid,* pp. 396, 397
[8]Kaul & Shakdher, p. 671
[9]*Ibid,* p. 671

CERTIORARI

A writ by which causes are removed from inferior Courts to High Court and Supreme Court.[1]

A writ of the High Court to an inferior Court to call up the records of a cause therein depending, that conscionable justice may be therein administered.[2]

Corrective in nature, issued by the superior Court to inferior judicial or quasi-judicial body. Grounds for invoking are excess of jurisdiction, violation of natural justice, fraud and error on the face of the record. Conditions for issuing this writ are: (i) a body of persons having legal authority, (ii) to determine questions altering rights of subjects, (iii) having the duty to act judicially, (iv) act in excess of their legal authority, (v) issued on constitutional grounds also.[3]

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[1]Chambers, p. 158

[2]Stroud, Vol. I, p. 487

[3]Arts. 32 and 226 (Prov. of Bombay *Vs.* Khusal Das, A.I.R. 1950, S.C. 222). Ujjan Bai *Vs.* State of U.P., A.I.R., 1962, S.C. 16221.

CHAIRMAN

Person chosen to preside over meeting, permanent president of committee, board etc.;[1] a person who presides at a meeting or heads a committee, board etc.;[2] a person who presides over the sitting of a legislative House in the absence of the Speaker and Deputy Speaker.

In the House of Lords, the Officer who presides over the deliberations of the House in the absence of the Lord Chancellor as Speaker and the Deputy Speaker is called Deputy Chairman; the Committees are presided over by Chairman appointed by the House at the beginning of every session or whenever a vacancy occurs; he takes the Chair in all Committees of the whole House and is also Chairman *ex-officio* of all committees of the House. The Chairman also makes the formal report of the Committee to the House. He may vote if he wishes but he does not enjoy a casting vote. Principal Deputy Chairman assists the Chairman in his duties and also acts as Chairman of the European Communities Committee; both are salaried offices.[3]

In the House of Commons, the Chairman of Ways and Means acts as Deputy Speaker. He is appointed from amongst the members by a resolution moved by the Leader of the House for the duration of the House. In the event of equality for votes the Chairman like the Speaker has a casting vote. Two Deputy Chairmen of Ways and Means are also appointed in order to take the Chair in the absence of the Speaker and the Chairman of Ways and Means. Each of them is entitled to perform the duties and exercise the authority of the Speaker in relation to all the proceedings in the House when he presides.[4]

Chairman of Ways and means is the Chairman *ex-officio* of all Committees of the whole House.[5] The two Deputy Chairmen of Ways and Means are entitled to exercise all the powers vested in the Chairman of Ways and Means.[6] The Chairman as well as Deputy Chairman, though members of a Party, cease to act as such during their tenure.[7] Besides the Chairman and Deputy Chairman the Speaker nominates at the commencement of every session a panel of not less than ten members to act as temporary Chairmen of committees on the request of the Chairman of Ways and Means. From this panel the Speaker appoints the Chairmen of standing committees.[8]

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[1]Oxford p. 196
[2]Webster, p. 241
[3]May, p. 185, 474
[4]May, p. 194, 195, 360-361
[5]Abraham & Hawtrey, p. 52
[6]May, p. 196
[7]Abraham & Hawtrey, p. 53
[8]May, p. 197

In India, the Vice-President of India is *ex-officio* Chairman of Rajya Sabha (Council of States).[9]

In Lok Sabha, Speaker nominates a panel of not more than six Chairmen from amongst the members. Any one of them may preside over the House in the absence of the Speaker and the Deputy Speaker when requested to do so and all references to the Speaker in these rules shall be deemed to be references to any such presiding person[10], while presiding over a sitting of the House, Chairman has the same powers as the Speaker has. Chairman is free to participate in all discussions in the House.[11] Every Parliamentary Committee is presided over by a Chairman appointed by the Speaker from amongst the Members of the Committee.[12] In the absence of the Chairman Committee chooses another member to act as Chairman for that sitting.[13] If the Speaker or the Deputy Speaker is the member of a Committee invariably he will be the Chairman of that Committee.[14] Chairman of a Committee has the same powers and duties in respect of the proceedings of the Committee as the Speaker has in respect of the proceedings of the House. He has second or casting vote in case of equality of votes. He presents the report to the Speaker or the House.[15]

[9]Art. 89
[10]Rule 9 (LS) and Kaul & Shakdher, p. 127
[11]Rule 10 (LS)
[12]Rule 258 (LS)
[13]Sub-rule (3) of Rule 258 (LS)
[14]Kaul & Shakdher, p. 128
[15]Kaul & Shakdher, p. 130-31

CHAMBER

An assembly hall; a legislative or judicial body or division; as, the Chamber of Deputies; a judge's Office located near the court room;[1] a council, as a Chamber of Commerce, judge's room for hearing cases not needing to be taken in Court, hall used by deliberative or judicial body; one of the Houses of Parliament;[2] the place where certain assemblies are held; also the assemblies themselves;[3] a hall used by a group of legislators, as in U.S.—the Senate and the House of Representatives often distinguished as the upper Chamber and the lower Chamber;[4] the halls in which the Lords and the Commons respectively meet and debate;[5] a house of a legislature especially, the French chamber of Deputies.[6]

In India, the halls where the members of Lok Sabha and Rajya Sabha meet and deliberate are known as Lok Sabha Chamber and Rajya Sabha Chamber respectively. These Chambers are not allowed to be used for any purpose other than the sittings of the respective House.[7] Rooms located immediately behind the Speaker's/Chairman's Chair are known as Speaker's/ Chairman's Chamber respectively.

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[1] Webster, p. 242
[2] Oxford, p. 197
[3] Wharton, p. 175
[4] Oxford (Learner), p. 138
[5] May, p. 176
[6] Chambers, p. 159
[7] Rule 384 (LS)

CHIEF ELECTION COMMISSIONER

The Chairman of the Election Commission; appointed by the President of India. Under his supervision, the Election Commission superintends, directs and controls the preparation of the electoral rolls and conducts all elections to Parliament and to the legislature of every State and to the offices of President and Vice-President of India.[1] He cannot be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehaviour or incapacity. His conditions of service cannot be varied to his disadvantage after his appointment.[2] Any other election commissioner or regional commissioner can be removed from office only on the recommendation of the Chief Election Commissioner.[3]

[1] Art. 324 (1) & (2)
[2] Art. 324(5) read with Art. 124(4)
[3] *Proviso* to Art. 324(5)

CHIEF WHIP

The Chief of the Whips of different political parties in Parliament. (For whips *see* under that heading).

In U.K., the Government as well as the Opposition have Chief Whips who send out a document each week to their members detailing the business for each day of the following week;[1] the Govt. Chief Whip performs the most important duties; he is officially designated as Parliamentary Secretary to the Treasury and his main work is the organisation of Government business in consultation with the opposition chief whip. The chief whip customarily moves the closure;[2] he is concerned with mapping out the time of the session and for arranging the business of individual sitting. He is directly responsible to the Prime Minister and leader of the House and advises the Government on Parliamentary business and procedure. He and the Chief Whip of the largest opposition party constitute the "usual channels" through which consultations are held with other parties.[3]

In the Indian Parliament, the Chief Whip of the Government Party in Lok Sabha is the Minister of Parliamentary Affairs; he is directly responsible to the leader of the House and advises the Government on Parliamentary business. He ensures quorum in the House and that adequate number of members of the Party are present at the time of voting and sends advance intimation through the familiar system of ordinary one, two and three line whips. He selects the speakers from his party and also the members for select committees etc. In the Rajya Sabha, the Minister of State for Parliamentary Affairs holds the position of Chief Whip of the Government Party.[4]

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[1] Wilding & Laundy, p. 785
[2] *Ibid,* pp. 786-787
[3] May, p. 213
[4] Kaul & Shakdher, pp. 146-47

CITIZEN

Member, native or naturalised, of a State;[1] a member of a State or nation, especially one with a republican form of government, who owes allegiance to it by birth or naturalisation and is entitled to full civil rights.[2]

A person who is either born within the State or born of parents who are citizens or one who has acquired the status of citizen by application of the laws of the State providing for the naturalisation of persons born in another State.[3]

One who owes to Government allegiance, service and money by way of taxation, and to whom the Govt., in turn, grants and guarantees liberty of person and of conscience, the right of acquiring and possessing property, of marriage and the social relations, of suit and of defence, and security in person, estate and reputation.[4]

Citizenship is governed by law in each country. In U.K., a person may become a citizen by (a) birth; (b) registration; (c) naturalisation; and (d) incorporation of territory. In U.S.A., citizenship is a dual concept; acquired by birth or by naturalisation; there are federal and state citizenship each with distinct rights and obligations. In Canada, there is no provincial citizenship. Mode of acquisition of citizenship are (1) birth; and (2) certificate of citizenship. In Australia the citizenship is acquired by birth, descent, registration and naturalisation.[5]

In India, there is a single citizenship. A person is a citizen of India, if (i) he has his domicile in the territory of India and (a) he was born in the territory of India; or (b) either of whose parents was born in the territory of India, or (c) who has been ordinarily resident in the territory of India for not less than five years immediately, before the commencement of the Constitution of India.[6]

Besides, the following categories of persons are deemed to be citizens: (i) persons born in undivided India or either of whose parents or any of whose grandparents was born in undivided India, migrated to the territory of India from the territory of Pakistan before the nineteenth day of July, 1948 and has been ordinarily resident in India after such migration; (ii) such persons who migrated to the territory of India on or after the nineteenth day of

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[1]Oxford, p. 218
[2]Webster, p. 267
[3]Dunner, p. 95
[4]Anderson, pp. 182-83.
[5]Basu (6th edn.) Vol. I, pp. 109-110
[6]Art.5

July, 1948 and have been registered as citizens of India; (iii) persons who or either of whose parents or any of whose grandparents was born in undivided India are ordinarily residing in any country outside India and has been registered as a citizen of India by the diplomatic or consular representative of India in that country.[7]

The modes of acquisition of Indian citizenship are (a) Birth; (b) Descent; (c) Registration; (d) Naturalisation; (e) Incorporation of territory; and (f) Certificate in case of doubt.[8]

Citizens of India have the following special rights:

(i) Some of the Fundamental Rights such as the right of freedom of speech and expression, the right to assemble peaceably and without arms, right to form associations or unions, the right to move freely throughout the territory of India, to reside and settle in any part of the territory of India, to practice any profession, or to carry on any occupation, trade or business etc. are conferred on citizens only;

(ii) Right to hold the offices of President, Vice-President, Judges of High Courts and the Supreme Court, Attorney-General, Governor of a State and Advocate-General;

(iii) Right to become a member of Parliament or of a Legislature;

(iv) Right to suffrage for election to the House of the People and the Legislative Assembly of a State;[9]

The citizenship of a person can be terminated under the relevant law.[10]

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[7] Art. 6

[8] Basu (6th edn); Vol. I. pp. 111

[9] *Ibid,* p. 92

[10] Sec. 9 of the Citizenship Act, 1955

CLAUSES

A series of numbered parts into which a Bill is divided; a discriptive title is printed in the margin of each clause.[1]

The main clauses of a Bill in the Indian Parliament are: (i) Extent Clause, (ii) Commencement Clause, (iii) Definition Clause, (iv) Rule making Clause etc.[2]

[1]May, p. 463
[2]Kaul & Shakdher, pp. 537-39

CLOSURE

Closing, closed condition;[1] a closing or being closed, a finish, end, conclusion, anything that closes or shuts;[2] decision by vote of House of Commons, under certain restrictions, to put the question without further debate;[3] the parliamentary procedure by which debate is closed and the measure under discussion brought up for an immediate vote; [4] the procedure in deliberative assemblies whereby debate is closed.[5]

The procedure by which a debate may be terminated by a majority decision of the House, even though all Members wishing to speak have not done so. In the House of Commons, closure was instituted as a result of the action taken by Speaker Brand on 2 February, 1881, in terminating a debate on his own responsibility after a debate lasting $41^{1}/_{2}$ hours during which the Irish Members had deliberately protracted the debate on the motion for leave to bring in the Protection of Person and Property Bill.[6]

In the House of Commons a Member may rise in his place and move 'That the question be now put.' That question must be put forthwith, without amendment or debate, unless it appears to the Chair that the motion is an abuse of the Rules of the House or an infringement of the rights of the minority.[7]

In Indian Parliament in order to bring a debate to a close, a Member may rise and move "That the question be now put". *The acceptance of a closure motion lies within the sole discretion of the Speaker. Before he accepts it, he considers whether the question before the House has received adequate debate or not, whether or not the views of the Opposition have been adequately expressed before the House. The Speaker also intervenes by restricting the closure to occasions when a motion is made not in abuse of the Rules of the House or infringement of the rights of the minority. The discretion that the Speaker exercises in the matter of accepting a proposal for closure or in refusing it is entirely absolute and is not open to debate. No debate is allowed on a closure motion.[8] After the motion has been carried, the question or questions consequent thereon are put forthwith without further debate.

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[1] Oxford, p. 226
[2] Webster, p. 276
[3] Oxford, p. 226
[4] Webster, p. 276
[5] Wharton, p. 206
[6] Wilding & Laundy, p. 139
[7] May, p. 407
* Rule 362 (LS)
[8] Rule 362 (LS) and Handbook, p. 75

COALITION

Temporary alliance of factions, parties for some specific purpose;[1] combination or alliance short of union especially of states or political parties;[2] union of political parties to secure a majority in Parliament over other groups;[3] usually takes place in multi-party system in which no single party is able to command support of a working majority.[4]

[1]Webster, p. 279
[2]Chambers, p. 184
[3]Wilding & Laundy, p. 140
[4]Dunner, p. 101

COALITION GOVERNMENT

Government by a coalition of parties[1] formed when political parties unite to secure majority in Parliament over other groups[2] or in times of war or other great national emergency when a majority party invites minority parties to form government in the interest of national unity; it tends to be unstable and weak as it lacks clear electoral mandate because it reflects diverse and partisan viewpoints; lacks cohesion of its membership; it has to necessarily accommodate minority view point for getting its Parliamentary support.[3]

[1]Chambers, p. 184
[2]Wilding & Laundy, p. 140
[3]Dunner, p. 101

COLLECTIVE RESPONSIBILITY

Responsibility of a number of individuals acting together; responsibility of a Cabinet to Parliament, for the policy of the administration.[1]

In England, collective responsibility is a rule of convention; an essential aspect of it is that every Minister must vote for a decision taken by the Cabinet and maintain strict secrecy;[2]. Collective responsibility also means that the Ministers must, as a body, lose their office if they cannot retain the confidence of the Popular House of the Legislature.[3] It is another established convention that the resignation of the Prime Minister results in the resignation of the entire Cabinet.[4]

In Canada, Australia the Fifth French Republic and Sri Lanka the principle of collective responsibility of the Cabinet is being followed; in West Germany, the Popular House can remove a Federal Chancellor only if it can elect his successor.[5] In India, the Council of Ministers is collectively responsible to the Lok Sabha.[6] It has to resign if it is voted out by Lok Sabha on a no-confidence motion.[7]

The essence of collective responsibility is that when a decision is taken by the Cabinet, every Minister has to stand by it without any reservation; it is ensured by the enforcement of principles, namely, that no person is nominated to the Council of Ministers except on the advice of the prime Minister and no person is retained as a member of the Council if the Prime Minister demands his dismissal.[8] The responsibility is collective and not that of any Minister individually.[9]

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[1] Basu, Vol. E, 6th edn., p. 391
[2] *Ibid,* p. 391
[3] Basu, Vol. E, 6th Edn., p. 395
[4] Jennings, Cabinet Govt. (1951), p. 72
[5] *Ibid,* pp. 392-95
[6] Art. 75(3)
[7] Basu, p. 397
[8] Kaul & Shakdher, pp. 686-87
[9] Basu, p. 397

COMMITTEE(S) — GENERAL

Body of persons appointed for special function by a larger body;[1] a group of people chosen to consider some matter or to function in a certain capacity;[2] one or more persons, to whom a matter is referred for examination, deliberation, superintending, action or recommendation;[3] certain persons elected or appointed to whom any matter or business is referred, either by a legislative body or by any corporation or society.[4]

Small bodies of members of Legislatures to whom the consideration of detailed or technical questions are delegated.[5]

In U.K., each House of Parliament has an organised system of Committees, which comprises Committees of the whole House, Select Committees and Committees on Private Bills; in the House of Lords, there are also Public Bill Committees and in the House of Commons standing committees on Public Bills and other matters.[6] These Committees consider and suggest amendments to Public and Private bills or inquire into matters which the House refers to them for investigation. In addition to the above Committees, both Houses sometimes collaborate in Joint Committees which consist of Select Committees of both Houses sitting and voting together.[7]

The Committee of the whole House is appointed by a resolution of the House to that effect and when the House thus resolves itself into a Committee, the Speaker is directed to leave the Chair, when the Speaker leaves the Chair, the mace is removed from the Table and placed under it and then the Committee commences its sitting with the Chairman of Ways, and Means taking the Chair at the Table or on his absence by one of the Deputy Chairmen[8]; in the Lords, the Lord Speaker leaves the Woolsack and the Chairman of Committee takes the Chair at the Table[9].

The Indian Parliament too possesses an organised system of Committees; these Committees are appointed or elected by the House or nominated by the Speaker; they work under the direction of the Speaker and present their reports to the Speaker or the House.[10] The functions of these Committees and the procedure to be followed by them etc. are regulated by the Rules of Procedure as well as the Directions by the Speaker.

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[1] Oxford, p. 243
[2] Webster, p. 295
[3] Anderson, p. 211
[4] Wharton, p. 219
[5] May, p. 688
[6] *Ibid,* p. 688
[7] *Ibid,* p. 688
[8] *Ibid,* pp. 689, 195-196
[9] *Ibid,* p. 475
[10] Kaul & Shakdher, p. 730

The Committees of the Lok Sabha can be classified into (i) Standing Committees; and (ii) *Ad hoc* Committees. Some of the Standing Committees are Committee on Petitions, Committee of Privileges, Committee on Subordinate Legislation; the financial committees *viz.* Committee on Estimates, Committee on Public Accounts and Committee on Public Undertakings and the Committee on Welfare of Scheduled Castes and Scheduled Tribes.

Committees constituted from time to time either by Lok Sabha on a motion or by the Speaker to inquire into and report on specific subjects come under the category of *ad hoc* Committees—such as Railway Convention Committee, Joint Committees on Bills, Select Committees etc.[11] (for details of various Committees *see* under their respective heads). Members are appointed to or elected to a Parliamentary Committee by the House on a motion or nominated by the Speaker

The Committees of Lok Sabha have power *inter alia* to take evidence, call for documents, send for persons, papers and records and make special reports.[12] The Committees of each House of Parliament enjoy the same powers, privileges and immunities as are enjoyed by the House.[13]

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[11] *Ibid,* p. 732
[12] *Ibid,* p. 765
[13] Article 105(3), Sec. 15 of Constitution (44th Amendment) Act, 1978.

COMMITTEES, PARLIAMENTARY

(i) Committee on Absence of Members from Sittings of the House

A Parliamentary Committee for considering applications from Members for leave of absence from sittings of the House.[1]

In the House of Commons, seeking of leave of absence is not necessary for a member in the ordinary course of business. However, leave is granted to official delegations and the Speaker for official visits.[2]

In the House of Lords a Lord may obtain leave of absence for the rest of the Parliament by applying in writing to the Clerk of the Parliament.[3]

In India, the Committee constituted by Lok Sabha consists of 15 members nominated by the Speaker and holds office for one year;[4] examines every case of Member's absence from sittings of the House for sixty days or more without permission; reports to the House whether the absence of Member should be condoned or his seat should be declared vacant by the House in pursuance of the Constitutional provision.[5] If the Committee recommends condonation of Member's absence or grant of leave of absence, the Speaker takes the pleasure of the House in specific terms;[6] if the Committee does not recommend condonation or grant of leave of absence but recommends that the Member's seat should be declared vacant, such a report is presented to the House after Speaker and Leader of the House have agreed to the recommendation; in such a case a motion may be moved by any member that the House agrees or disagrees with the recommendation of the Committee.[7]

Rajya Sabha does not have such a Committee. The applications of Members seeking leave of absence are read out in the House by the Chair for taking the pleasure of the House.[8]

(ii) Committee on Empowerment of Women

A Committee of Parliament set up to ensure equality and status to women and to protect them against discrimination.[9]

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[1] Rule 326
[2] May, p. 180
[3] *Ibid,* p. 179
[4] Rule 325 (LS)
[5] Rule 326(1) (ii) (LS), 326(2) (LS) and Article 101(4)
[6] Rule 327 (LS)
[7] Rule 328 (LS) and Kaul & Shakdher, pp. 865-66, 867
[8] Rule 214 (Rajya Sabha)
[9] Kaul & Shakdher, p. 883

In pursuance of the obligation and powers enshrined in article 15(3) of the Constitution, National Commission for Women was set up in 1992 under an act of Parliament. Thereafter both the Houses of Parliament passed two identical resolutions for setting up a Parliamentary Committee on Empowerment of Women. The committee was constituted first in April 1997.[10]

It consists of 30 members; 20 members nominated by the Speaker from amongst the Members of Lok Sabha and 10 Members nominated by the Chairman, Rajya Sabha from amongst the Members of Rajya Sabha. A Minister cannot be the Member of the Committee.[11] The Chairman of the Committee is appointed by the Speaker from amongst the Members of the Committee.[12] The term of the Committee is one year.[13]

The main functions of the Committee are to consider the reports of National Commission for Women; to examine the measures taken by the Union Govt. to procure for women, equality, status and dignity and to provide comprehensive education and adequate representation of women in legislative bodies/services and other fields; to report on the working of the welfare programmes for women and on the action taken by the Union Govt./Administrations of Union territories on the measures proposed by the Committee. The Committee can also suggest the measures to be taken by the Union Govt. for improving the status/conditions of women. It can also examine the matters specifically referred to it by the Speaker or the Chairman of the Rajya Sabha or by either of the Houses.[14]

(iii) Business Advisory Committee

In the House of Commons, this Committee is known as Business Committee whose duty is to divide the bill into such parts as it sees fit and allot to each part such time as it considers appropriate within the allocation laid down by the order of the House; it consists of Chairman of Ways and Means, who acts as Chairman and not more than eight other Members nominated by Mr. Speaker in respect of each bill;[15] the Committee reports its recommendations to the House which may accept or reject, but not debate them[16].

In the Lok Sabha this Committee consists of not more than 15 Members including the Speaker who is the *ex-officio* Chairman[17]; nominate at the commencement of a new House after a general election and thereafter from time to time.[18]

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[10]Kaul & Shakdher, p. 883
[11]Rule 331-0
[12]Rule 331-0-4
[13]Rule 331 0-5
[14]Kaul & Shakdher, p. 884 & Rule 331
[15]May, pp. 411
[16]Wilding & Laundy, p. 64
[17]Kaul & Shakdher, p. 774 and Rule 287 (LS)
[18]*Ibid,* p. 774 & Rule 287 (LS)

The main function of the Committee is to recommend the time that should be allotted for discussion of the stage or stages of such Govt. Bill or other business which the Speaker in consultation with the Leader of the House may direct to be referred to the Committee; it has the power to indicate in the proposed time-table, the different hours at which various stages of the Bill or other business shall be completed; it selects motions admitted by the Speaker for discussion in the House and recommends time therefor; also performs such other functions as may be assigned to it by the Speaker from time to time.[19] Its recommendations are presented to the House in the form of a report and a motion that the House agrees with it is moved; this motion is normally adopted unanimously.[20]

In Rajya Sabha the Business Advisory Committee consists of eleven members including Chairman and Deputy Chairman.

(iv) Estimates Committee

A Committee of a Legislature to examine in greater detail the estimates of the Government. As a close scrutiny of the estimates is not feasible in the House, this task is left to this Committee; however it is debarred from considering the policy underlying the estimates. It can report to the House how the policy may be carried out more economically.[21]

The Estimates Committee of the House of Commons was appointed by Standing Order and was first set up in 1912. The chief purpose was to examine the estimates in detail and suggest ways to carry out the policy implied in the estimates more economically. In 1971 the Estimates Committee was replaced by the Expenditure Committee with wider terms of reference to examine public expenditure.[22] The Select Committee system in the House of Commons was reformed in 1979 by a new Standing Order. Under the new system 12 departmentally-related Committees were set up to examine the expenditure, administration and policy of the main Government departments and related public bodies.[23]

In India, the Estimates Committee is a Committee of Lok Sabha. It has been set up by this House as it does not have sufficient time or the flexibility to discuss the details and the technical aspects of the estimates.[24] The Estimates Committee appoints sub-committees and study groups for securing flexibility in the working and for scrutiny of the subjects selected for examination.[25] The Committee examines such estimates as may seem fit to it or are specifically referred to it by the House or Speaker. Its chief functions are to report measures to bring about economies, improvements in organisation

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[19]Rule 288
[20]Kaul & Shakdher, p. 701
[21]Wilding and Laundy, p. 257
[22]May, p. and Abraham and Hawtrey, p. 95
[23]Britain, 1982—An Official Handbook, p. 42
[24]Kaul & Shakdher, p. 828
[25]*Ibid,* p. 833

and administrative reforms etc. consistent with policy underlying the estimates, to suggest alternative policies to bring about efficiency and economy in administration etc.[26] The Committee can call for details of expenditure charged on the Consolidated Fund of India. It can also examine matters of special interest which it may consider necessary to bring to the notice of the House.[27] Its conclusions which have been reached after a detailed examination of different departments of the Government and non-official witnesses through evidence collected are recorded in a report.

The estimates relating to the Ministry of Defence, whenever taken up, are examined by a sub-Committee and its report, when adopted, is deemed to be the report of the whole Committee.[28]

(v) Ethics Committee

Ethics is a set of rules or standards governing the conduct of a person or the members of a profession.[29]

Ethics Committee of a Legislature is an internal self-regulatory mechanism which aims at inclucating in the members certain standard norms of behaviour.[30]

In U.K. the Committee of Privileges and the Select Committee on Members' interest have been replaced by the Committee on Standards and Privileges in 1995. This is an 11 Members' Committee which oversees the work of Parliamentary Commissioner for Standards and considers matters relating to the Conduct of Members including specific complaints about alleged breaches in any code of conduct or failure to comply with the rules relating to the registration or declaration of interests.[31]

In USA Congress Senate has Select Committee on Ethics and the House of Representatives has a Committee on Standards and Official Conduct, empowered with advisory functions and investigative authority regarding ethics/ standards/code of conduct.[32]

In India, Ethics Committee was first set up in Rajya Sabha in March, 1997. It consists of 11 Members including the Chairman who is nominated by the Chairman, Rajya Sabha from amongst its Members.[33] In the Lok Sabha, the Committee on Ethics was constituted by the Speaker in May, 2000 with 15 Members including the Chairman. The functions of the Committee are to oversee the moral and ethical conduct of the Members and to examine cases referred to it with reference to ethical and other misconduct of Members. In procedural and other matters, the rules applicable to the Committee of Privileges, apply to this Committee too.[34]

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[26]Rule 310 (LS), Kaul & Shakdher, p. 830
[27]Kaul & Shakdher, pp. 831-32
[28]*Ibid,* p. 833
[29]American Heritage Dictionary, p. 630
[30]Third Report of Ethics Committee of Rajya Sabha
[31]May, p. 680-81 and Home page of House of Commons
[32]Report on Ethics etc. of Privilege Committee of 11th Lok Sabha, p. 2
[33]Handbook (Rajya Sabha), p. 94
[34]*Ibid*

The Ethics Committee of Lok Sabha have in their first and second reports recommended strict enforcement of all the existing norms of ethical behaviour for Members provided in the Rules of Procedure, Handbook for Members and Directions by the Speaker and for the incorporation of the code of conduct in the Rules of Procedure and Conduct of Business.[35]

(vi) General Purposes Committee

Constituted by the Speaker to consider and advise on such matters concerning the affairs of the House as may be referred to it by him from time to time.[36]

Consists of the Speaker, the Deputy Speaker, members of the Panel of Chairmen, Chairmen of all Standing Parliamentary Committees of Lok Sabha, Leaders of all recognised parties and groups in Lok Sabha and such other members as may be nominated by the Speaker. The Speaker is the *ex-officio* Chairman of the Committee.[37]

First appointed on November 26, 1954 by the Speaker with the object that he might take into confidence and have informal consultations with the representatives of various parties and groups regarding improvement and better organisation of the work of the House. The Committee considers and advises the Speaker on matters concerning the affairs of the House which do not appropriately fall within the purview of any other Parliamentary Committee.[38]

No hard and fast terms of reference are laid down for this Committee. The Committee may appoint one or more sub-committees for detailed examination of particular matters. The Committee may make an on-the-spot study of any matter under its consideration. It may take evidence and may also send for persons, papers or records where found necessary, its sittings are held in private and it does not present any report to the House. In the Rajya Sabha the General Purposes Committee consists of the Chairman, the Deputy Chairman, Members of Panel of the Vice Chairmen, Chairmen of all Standing Committees, Leaders of recognised parties/groups and such members as nominated by the Chariman.[39]

(vii) Government Assurances Committee

A Committee to ensure timely implementation of assurances given by Ministers on the Floor of the House, constituted for the first time by the Speaker, Lok Sabha on December 1, 1953*; consists of not more than 15 members who are nominated by the Speaker; the term of their membership

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[35]Conclusion reached at after studying the 1st and 2nd Reports of Ethics Committee of Lok Sabha
[36]Appendix II (R-2) Rules of Procedure
[37]Appendix II (R-2) *ibid*
[38]Kaul & Shakdher, p. 871
[39]*Ibid,* pp. 872-73,Rajya Sabha, rule 278-285
*Such a Committee does not exist in British Parliament
*Kaul & Shakdher, p. 860 & Rule 278-285 (Rajya Sabha)

does not exceed one year[40]; its main task is to scrutinise the assurances, promises, undertakings etc. given by Ministers from time to time on the Floor of the House and to report on the extent to which those have been implemented and whether such implementation has taken place within the minimum time necessary for the prupose[41]; the Committee hears the representatives of the Ministry and obtains their evidence in case the Ministry represents that a particular statement of a Minister should not be treated as assurance or an assurance should be dropped on certain grounds or when there is undue delay in its implementation[42] Assurances do not lapse on the dissolution of Lok Sabha. The work of the Committee is of a continuous nature and it is generally the practice that the work of the Committee left unfinished is taken up by the succeeding Committee. A Minister who gives assurance on the Floor of the House is required to furnish a statement showing action taken by the Government in respect of that assurance which is laid on the Table by the Minister of Parliamentary Affairs[43]; on the basis of recommendations of the Committee, a report is prepared and presented to the House by its Chairman; the minutes of sittings of the Committee form part of the report; there is no discussion on this report in the House. In the Rajya Sabha the Committee consists of ten Members and is constituted every year. Its Chairman is appointed by the Chairman, Rajya Sabha from amongst its members.[44]

(viii) House Committee

A Committee of a legislature which deals with the accommodation of its members; it also supervises other facilities such as medical aid, food etc. provided to the members; it is an advisory committee.[45]

In the House of commons, these functions are performed by a Finance and Services Committee which plays a central role in the management of House services and four free standing domestic committees, covering Accommodation and Works, Administration (general services), Catering and Information (the Library & Information technology). Domestic Committees are appointed under S.O. 142. They fulfil an advisory role on behalf of members and consider policy questions concerning services provided to Members.[46]

In the Lok Sabha, this Committee consists of not more than 12 Members and its term is one year; it is nominated by the Speaker. A sub-Committee is appointed to advise on the allotment of residential accommodation to members; it can have upto four members and the Chairman of the House Committee is its *ex-officio* Chairman.

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[40]Rule 324 (1) & (2) (LS)
[41]Rule 323(a) & (b) (LS)
[42]Kaul & Shakdher, p. 862
[43]*Ibid,* p. 862
[44]*Ibid,* p. 863-64, Rajya Sabha Rules 212 A to G
[45]Rules of Procedure, Appendix II, Rule 3(1) & (2)
[46]May, p. 683

Sub-Committees may also be appointed having the powers of the undivided Committee, to examine any special points relating to residential accommodation, food, medical aid and other amenities in Members' residences. In the Rajya Sabha the Committee consisting of seven members has a normal tenure of one year. Its Chairman is appointed by the Chairman, Rajya Sabha from amongst its members.[47]

(ix) Library Committee

The Library Committee of a legislature advises the Speaker on matters pertaining to the legislature library. In the House of Commons, a free Standing Domestic Committee on Information (the Library and Information Technology) appointed under S.O. 142 advise the Speaker on matters pertaining to the Library, Committee seeks the assistance of the Librarian in directing policy matters concerning the Library;[48] the Offices Committee of the House of Lords makes recommendation for the appointment of the Librarian, delegates to its Sub-Committee the responsibility of supervising the functioning of the Library.[49]

In India, an advisory Committee headed by the Deputy Speaker who is its *ex-officio* Chairman; consists of 9 members; 6 members (including Deputy Speaker) are nominated by the Speaker and 3 members of Rajya Sabha nominated by its Chairman; its term does not exceed one year; advises the Speaker on such matters concerning the Parliament Library which are referred to it by the Speaker from time to time; considers suggestions for improvement of the Parliament Library; assists Members of Parliament in fully utilising the services rendered by the Parliament Library;[50] advises the Speaker on selection of books, framing of rules and future planning for the library;[51] generally refers recommendations and suggestions regarding addition of books to the Library to its Sub-Committee.[52]

(x) Committee on Office of Profit

In U.K., Schedule I to the House of Commons Disqualification Act, 1975 lists the disqualifying offices. The Acts creating new offices or official bodies commonly provide for the insertion of these offices or bodies in the Schedule. The Schedule is amended by an Order in Council on resolution by the House of Commons.[53]

In India, a Joint Parliamentary Committee is constituted on a Government motion for the duration of the term of each Lok Sabha to examine the composition and character of all Government Committees, Commissions, Boards etc. membership of which may disqualify a person for being chosen as a

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[47]Rules of Procedure, Appendix II, Rule 1, 4 & 5
[48]May, pp. 206 & 683
[49]*Ibid,* pp. 231, 201-2 & 625
[50]Rules of Procedure (LS), Appendix II
[51]Kaul & Shakdher, pp. 875-76
[52]*Ibid,* pp. 875-76
[53]May, p. 50

member of either House of Parliament under article 102 of the Constitution and to recommend what offices should disqualify and what offices should not disqualify. The Committee also recommends amendments in the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 and also examines any queries relating to 'office of profit' received from M.Ps., Ministries, State Government etc.

The Committee consists of 15 members—10 from Lok Sabha and 5 from Rajya Sabha. The members are elected from both the Houses and the Chairman is appointed by the Speaker from amongst the members of the Committee.

After the Committee has been constituted, all the Ministries of the Government of India and Chief Secretaries, of State Governments/Union Territory Administrations are addressed to furnish the particulars of the Committees, Boards etc. constituted by them. The information received is examined and placed before the Committee in the form of memoranda. After considering sufficient number of memoranda, the Committee may decide to present a report to the House containing the recommendations of the Committee.

The report of the Committee is presented to Lok Sabha and a copy of the report is laid on the Table of the Rajya Sabha simultaneously by a Member from the Rajya Sabha specially authorised by the Committee.[54]

(xi) Committee on Papers Laid on the Table of the House

A Committee to examine all papers laid on the Table of the House and to bring to the notice of the House instances of delay in laying the papers.

In the House of Commons, reports of Committees or evidence taken before them and other papers laid on the Table of the House are at times referred to Select Committee of the House drawing the attention of the Committee to documents relating to subjects of its enquiry or for directing the Committee to enlarge its terms of reference.[55]

The Committee of Lok Sabha consists of 15 Members who are nominated by the Speaker for a one year term.[56] In Rajya Sabha the Committee on Papers Laid consists of 10 Members who are nominated by the Chairman and holds office until a new Committee is nominated.

The Committee examines all papers (excluding statutory rules and orders framed under the delegated powers which are examined by the Committee on Subordinate Legislation) laid on the Table of the House by Ministers to see that (a) there has been compliance with the provisions of Constitution, Act, Rules or regulations under which the paper has been laid; (b) there has not been any unreasonable delay in laying the paper; (c) in case of delay a

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[54]Kaul & Shakdher. p. 879
[55]May, p. 635
[56]Rule 305A(1) & (2) (LS)

statement explaining the reasons for delay has been laid and those reasons are satisfactory; and (d) both Hindi and English versions have been laid on the Table (e) whether a statement explaining reasons for not laying the Hindi version has been given and whether such reasons are satisfactory.[57]

A member wishing to raise any matter relating to laying of Papers on the Table of the House has to refer the matter to the Committee and is not allowed to raise it in the House.[58]

The Committee selects those papers laid on the Table of the House where there has been apparent delay in their laying on the Table of the House. It also brings to the notice of the House cases where certain papers were not laid at all and also fixes time limit for laying reports of Government companies, autonomous bodies etc.[59] In cases of delay, the Committee obtains the views of the concerned Ministry in the matter; if necessary the officials of the Ministry are called to tender evidence. On the basis of the information gathered, the Committee finalises its reports and it is presented to the House. In the Rajya Sabha the Committee consisting of ten members is normally reconstituted for one year by the Chairman, Rajya Sabha, who also appoints its Chairman from amongst its members.[60]

(xii) Committee on Petitions

A Committee of Parliament set up to examine Public Petitions.

In the British Parliament, a Standing Committee on Public Petitions has since ceased to function. Under Standing Order No. 156, the Clerk of the House is required to transmit all petitions to a Minister of the Crown. Any observations that a Minister or Ministers may make in reply to a petition are to be laid upon the Table by the Clerk of the House and ordered to be printed. A petition under SO 155 complaining of a present personal grievance, calling for an immediate remedy as an urgent necessity, is taken up for discussion on its presentation in the House. The House sometimes orders that petitions be referred to a select committee.[61]

In Lok Sabha at the commencement of the House or from time to time, the Speaker nominates a Committee on Petitions consisting of not less than fifteen members.[62] The Committee holds office for the period specified by the Speaker or until a new Committee is nominated.[63] Every petition, after presentation to the House by a member, or report by the Secretary General as the case may be, stands referred to the Committee.[64] A petition may be

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[57]Rule 305B (LS)
[58]Rule 305C (LS)
[59]Kaul & Shakdher, p. 806
[60]*Ibid,* p. 806 Rule 212H to 212O(Rajya Sabha)
[61](1) May, pp. 816-817
[62]Rule 306 (LS)
[63]Rule 256 (LS)
[64]Rule 169 (LS)

circulated to members in *extenso* or in summary form as the Committee directs.[65] It is the duty of the Committee to report to the House on specific complaints made in the petition referred to it after taking evidence, if it deems fit, and to suggest remedial measures either in a concrete form applicable to the case under review or to prevent such cases in future.[66] The Committee also considers representations, letters and telegrams from various individuals, associations etc., which are not covered by the rules relating to petitions, and gives directions for their disposal.[67] Matters dealt with in a report include action taken by Government on the recommendations of the Committee contained in its earlier reports, or the decisions of the Committee whether to pursue the recommendations with Government despite difficulties pointed out by the Government. In the Rajya Sabha, the Committee consisting ten members is nominated by its Chairman normally for a tenure of one year. Its Chairman is appointed by the Chairman Rajya Sabha. In case Deputy Chairman is a member of the Committee, he is appointed as the Chairman.[68]

(xiii) Committee on Private Members' Bills and Resolutions

A Parliamentary Committee to examine and classify all private members' Bills and to allot time for discussion of private members' Bills and resolutions.[69]

In the House of Commons, there is no Standing Committee to examine and classify the private members' bills, A Ballot is held on the second Thursday on which the House sits in the session at a time and place fixed by the Speaker and is conducted by the Chairman of Ways & Means for determining precedence to be given to private members who wish to introduce bills according to their nature, urgency and importance. Members who are successful in the ballot present their Bills later on under standing order 14[70] provides for 13 Fridays on which private members have precedence over Government business. These Bills are examined by the clerks in the Public Bill Office to see whether they have been prepared in conformity with the rule and standing orders of the House.[71] however, private members' Bill are referred to a Standing Committee which gives precedence to private members' bill.[72]

In the Lok Sabha, the Committee consists of 15 members nominated by the Speaker and holds office for a term not exceeding one year.[73] Deputy Speaker is generally the Chairman of the Committee; it examines and classifies all private members' Bills according to their nature, urgency and importance after they are introduced and before they are taken up for consideration in the House; examines private members' Bills opposed in the House on the

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[65]Rule 307 (LS)
[66]Rule 307 (3) (LS)
[67]Dir. 95
[68]Kaul & Shakdher, p. 810 and Rules 147-153 (Rajya Sabha)
[69]Rule 294 (1) (b.c & e)
[70]May, pp. 270, 495
[71]*Ibid,* pp. 497 & 896
[72]Wilding & Laundy, p. 588
[73]Rule 293 (1) & (2)

ground that they initiate legislation outside the legislative competence of the House; allots time for discussion of private members' Bills and resolutions.[74]

The report of the Committee is presented to the House and a motion for its adoption is moved. Half-an-hour discussion may be permitted on the motion. On adoption of the motion, the classification of the Bills and allocation of time to Bills and resolutions becomes order of the House.[75]

(xiv) Parliamentary Committee on MPLADS

It is an ad hoc Parliamentary Committee constituted by the Speaker/ Chairman, Rajya Sabha under their discretionary powers, to monitor and review the Members of Parliament Local Area Development Scheme. This Scheme came into being in December 1993, with the sole aim of ensuring that the public representatives have some say in prioritizing the developmental process of their respective constituencies. Under this scheme each MP has a choice to recommend the developmental work upto Rs. 2 crore per year based on locally felt needs. Members of Lok Sabha can recommend works in their constituencies while Members of Rajya Sabha may select works in one or two districts in the states which they represent. Nominated members can select works anywhere in the country.[76] The District Collector gets the selected work implemented by following the established procedure laid down under the guidelines for this scheme.[77]

In Rajya Sabha, the Committee was constituted for the first time in 1998, in the Lok Sabha in 1999. It consists of 10 Members with Deputy Chairperson Rajya Sabha as its Chairman.[78] In Lok Sabha, this Committee consists of 23 Members and the Chairman is appointed by the Speaker from amongst its Members.[79]

The tenure of the Committee is one year.[80]

The main functions of the Committee are to monitor and review periodically the performance and problems in implementation of MPLAD scheme; to consider complaints of Members in regard to the scheme and to perform any other functions related to the scheme assigned to it by the Speaker or Chairman of Rajya Sabha as the case may be.[81]

The Committee looks into all aspects of the list of works permissible under the guidelines issued by the Ministry of Statistics and programme implementation. It also monitors the proper and timely release of funds by the Ministry to the District Collectors.[82]

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[74]Rule 294(1) (a) to (d)
[75]Rule 295, 296
[76]Handbook (Rajya Sabha), p. 92
[77]Guidelines on MPLADS, p.1
[78]Handbook (Rajya Sabha), p.92
[79]*Ibid,* p. 92 and Rule 258 of Lok Sabha
[80]Kaul & Shakdher, p.893
[81]*Ibid,* p.893
[82]Handbook, Rajya Sabha, p.93

(xv) Privileges Committee

A Committee of the Legislature appointed to examine the cases of breach of privilege referred to it by the House or the Speaker and make suitable recommendations to the House.

In the House of Lords, this Committee consists of sixteen Lords together with any four Lords of Appeal. Its function is to consider the questions of privilege that are referred to it by the House. It also considers claims of peerage and precedence. In the Commons, since 6th November, 1995 Committee on Standards and Privileges is charged with matters relating to privileges referred to it by the House, it consists of eleven members who are nominated for the duration of the Parliament; the quorum is five. The Committee does not sit in public.[83]

The House considers the report of the Committee; if the Committee reports that no breach of the privilege has been committed, no further proceedings are usually taken in the matter. If it reports that a serious breach of the privilege has been committed, the House usually proceeds to consider the degree of punishment to be inflicted.

Persons accused of breaches of the privileges are, as a rule, not allowed to be defended by counsel; but in some cases they are allowed, by leave of the House.[84]

In the Lok Sabha the Speaker nominates the Committee of Privileges; it consists of not more than fifteen members; usually constituted for one year.[85] The Deputy Speaker, when a member of the Committee, functions as the Chairman of the Committee.[86] It is the duty of the Committee to examine every question of privilege referred to it determine with reference to the facts of each case whether a breach of privilege is involved and, if so, the nature of breach, the circumstances leading to it, and make such recommendations as it may deem fit.[87] The Committee has the power to send for persons, papers and records.[88] The Committee does not associate any person or body from outside, formally or informally, with its deliberations.[89]

The Committee may hear the Member who raised the question of privilege or hear any other Member who may desire to place his views before the Committee on the question of privilege under consideration or decide not to hear him. The Committee also gives an opportunity of being heard to the person alleged to have committed a breach of privilege or contempt of the House, in person or through an Advocate, if so desired by him or considered necessary by the Committee. The Committee may, where the facts of the

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[83]May, pp. 625 and 680
[84]*Ibid,* p. 145
[85]Rules 313 (LS)
[86]Kaul & Shakdher, p. 848
[87]Rules 314(1) (LS)
[88]Rule 270 (LS)
[89]Kaul & Shakdher, p. 850

case are disputed, administer oath or affirmation to a witness examined before it.[90]

No minutes of dissent are appended to the report; however, the Committee may agree to mention in the minutes the fact that a Member expressed his dissent from the findings of the Committee. The Committee may permit a note containing the views of a Member/Members being appended to the report.[91]

The report of the Committee is considered by the House on a motion moved by the Chairman or any Member of the Committee or any other Member. Further action on the report is taken in accordance with the decision of the House.[92]

An additional function has been assigned to the Committee under the Members of Lok Sabha (Disqualification on ground of Defection) Rules, 1985, made by the Speaker under paragraph 8 of the Tenth Schedule to the Constitution w.e.f. 18th March, 1986. The Speaker may refer a petition regarding disqualification of a Member to the Committee for making a preliminary inquiry and submitting a report to him. The procedure to be followed by the Committee in these cases will be same as is applicable in the case of a question of breach of privilege. In the Rajya Sabha the Committee consisting of ten members nominated by the Chairman is normally constituted for one year. The Chairman of the Committee is appointed by the Chairman, Rajya Sabha.

(xvi) Public Accounts Committee

A Parliamentary Committee for the examination of the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure and of such other accounts laid before Parliament as the Committee may think fit.[93]

In British Parliament a select Committee of the House of Commons called Committee of Public Accounts scrutinizes appropriation accounts, and such other accounts laid before Parliament as the Committee may think fit, a leading member of the Opposition is usually its Chairman, empowered to take evidence of heads of government departments and call for papers and record.[94]

Its main function is to ensure that public money is spent as intended by Parliament and due economy and high standards of public morality are maintained in all financial matter;[95] assisted and advised by the Comptroller and Auditor-General who regularly attends its meetings and two treasury officers of Accounts; inquires into excess expenditure and reports whether it should be authorised by excess vote;[96] ascertains whether any department has spent

[90]Kaul & Shakdher, p. 850
[91]*Ibid,* p. 851
[92]*Ibid,* pp. 851-52
[93]Wilding & Laundy, p. 147, Rule 187-203 (RS)
[94]May, pp. 676-77
[95]Wilding & Laundy, p 147
[96]Abraham & Hawtrey, p. 160

more than granted by Parliament or spent on objects not approved by it; investigates into wastage of Public money when pointed out by Comptroller and Auditor-General;[97] ensures that sound financial practices are followed in estimating, contracting and in administration and reports on cases of excess vote;[98] the work of the Committee is mainly based on reports submitted by Comptroller and Auditor-General; the reports of the Committee are debated by the House on two supply days.[99]

In India, this Committee examines accounts showing appropriation of sums granted by Parliament for the expenditure of Government of India, annual finance accounts of Government of India and such other accounts laid before the House as the Committee may think fit;[100] consists of 15 members elected by Lok Sabha; seven Members from Rajya Sabha are associated with the Committee; if a member of the Committee is appointed a Minister, he ceases to be its Member;[101] the term of Members is for one year;[102] its Chairman, usually an Opposition Member is appointed by Speaker from amongst its Members for a term of one year;[103] in its scrutiny of appropriation accounts and reports of the Comptroller & Auditor-General thereon, the Committee has to satisfy itself that money appropriated was available for the service for which it was asked for, that the expenditure conforms to the authority governing it and every reappropriation conforms to the rules framed by the competent authority;[104] it also examines statement of accounts and balance-sheets of State Corporations, autonomous and semi-autonomous bodies and manufacturing concerns along with the report of the Comptroller and Auditor-General thereon;[105] also considers audit reports prepared by the Comptroller and Auditor-General under the directions of the President;[106] examines cases involving excess expenditure and makes necessary recommendations; examines cases involving losses and financial irregularities.[107]

(xvii) Committee on Public Undertakings

A Parliamentary Committee for the examination of the working of Public Undertakings.[108]

In British Parliament under S.O.No.152 provision is made for setting up a new structure of select Committees based on the areas of responsibility of the principal departments of the State which have been reappointed in each successive Parliament. The S.O.No.152 specifies that Committees shall be

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[97] *Ibid,* p. 161
[98] May, pp. 677 & 752
[99] Wilding & Laundy, p. 148
[100] Rules 308 (1) (LS)
[101] Rule 309(1) (LS) & Kaul & Shakdher, p. 813
[102] Rules 309(2)
[103] Rules 258(1) Kaul & Shakdher, p. 814
[104] Rules 308(2) (LS)
[105] Rules 308(3) (a) & (LS)
[106] Rules 308(3)(c) (LS)
[107] Kaul & Shakdher, pp. 841-42
[108] Rules 312(A) (LS)

appointed to examine the expenditure, administration and policy of the principal government departments and 'associated public bodies'. The structure of the system of Committees has been adopted to mirror the structure of the Government.[109]

In India, the Committee consists of 22 Members—15 elected by Lok Sabha from amongst its Members according to the principle of proportional representation by means of single transferable vote and 7 members of Rajya Sabha to be nominated by that House for being associated with the Committee; its members hold office for one year; its Chairman is appointed by the Speaker from amongst the members of the Committee; a Minister is not elected to the Committee; if a member, after his election to the Committee, is appointed a Minister, he ceases to be a member of the Committee from the date of such appointment.[110]

The Committee examines reports and accounts of the Public Undertakings specified in the Fourth Schedule of the Rules of Procedure and Conduct of Business of Lok Sabha as well as the reports, if any of the Comptroller and Auditor-General on them and examines whether the affairs of the public undertakings are managed in accordance with sound business principles and prudent commerical practices in the context of their autonomy and efficiency.[111] The Committee does not examine matters of major Government policy or matters of day-to-day administration pertaining to Public Undertakings; selects every year Public Undertakings for examination during the year; also selects subjects for limited enquiry; asks Ministries/Undertakings to furnish preliminary materials; prepares list of points/questionnaire for written replies from Ministries/ Undertakings concerned; may invite memoranda from non-official organisations, registered unions of Undertakings and professional consultants; undertakes tours for making on-the-spot study; calls officers of Ministries/Undertakings for tendering oral evidence; seeks assistance of Comptroller and Auditor-General in carrying out its examination of undertaking;[112] frames its conclusions and recommendations after examination; prepares a report which is presented to Lok Sabha by the Chairman or any other member authorised on his behalf. A copy of the report is simultaneously laid on the Table of Rajya Sabha by one of the members of that House. The Ministries/Undertakings are required to take action on various recommendations of the Committee and communicate it to the Committee; the replies sent by Ministries/Undertakings are examined by a Sub-Committee and action taken report is presented to Lok Sabha and also laid on the Table of Rajya Sabha.

(xviii) Railway Convention Committee

Ad hoc Committee constituted from time to time to review the rate of dividend which is payable by the Railways to the general revenues on the

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[109]May, pp. 628, 673, 676 and 1021-1022
[110]Rules 312(B) 1 & 2 (LS) & Kaul & Shakdher, p. 841
[111]Rules 312(A)(C) (LS)
[112]Kaul & Shakdher, pp./ 842-843

Capital invested in Railways[113] as well as other ancillary matters in connection with Railway Finance *vis-a-vis* General Finance and make recommendations thereon. It also recommends the level of appropriation to various funds of Railways like the Depreciation Reserve Fund, Development Fund, Pension Fund, etc.[114] House or the Speaker may also refer *ad hoc* issues of public importance relating to Railways and Railway finances to the Committee for examination.[115]

The Committee is constituted from time to time on the basis of resolution adopted by Lok Sabha and concurred in by Rajya Sabha. The Committee consists of 18 Members. Twelve Members from Lok Sabha are nominated by the Speaker and six Members from Rajya Sabha nominated by the Chairman, Rajya Sabha are associated with the Committee. Minister of Finance and the Minister of Railways are among the Members nominated to the Committee.[116]

The Chairman is appointed by the Speaker from amongst the Members of Lok Sabha.[117]

The Committee once constituted functions till the dissolution of Lok Sabha unless it presents its final Report earlier and becomes *functus officio.*[118]

The Committee has power to send for persons, papers and records.[119]

All questions at the sitting of the Committee are determined by a majority of votes of the Members present and voting. The Chairman or the person acting as Chairman has a casting vote in case of equality of votes.[120]

The report of the Committee is signed [121] by the Chairman on behalf of the Committee and presented to the Lok Sabha by the Chairman or a member authorised by him.[122] A copy of the report is also simultaneously laid [123] on the Table of the Rajya Sabha by a member of the Committee from that House who has been authorised by the Chairman to do so.

(xix) Rules Committee

A Parliamentary Committee appointed to consider matters of procedure and conduct of business in the House; recommends amendments or additions to the Rules.[124]

In the British Parliament there is no Rules Committee to perform this function; the standing orders are passed by the House on a motion; these

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[113]Kaul & Shakdher, p 698
[114]Parliamentary Committees, Railways Convention Committee—An Introductory Guide, p. 1
[115]*Ibid,* p. 6
[116]*Ibid,* p. 3 and Kaul & Shakdher, p. 891
[117]*Ibid, p. 3*
[118]*Ibid, p. 3*
[119]Rules 270 (LS)
[120]Rules 261 & 262 (LS)
[121]Rules 277(3) (LS)
[122]Rules 279 (1) (LS)
[123]Parliamentary Committee: Railway Convention Committee—An Introductory Guide, p. 24
[124]Kaul & Shakdher, pp. 868-869

are amended, repealed or suspended by an ordinary motion moved and passed in the House.[125]

In the Lok Sabha, this Committee is nominated by the Speaker; consists of 15 Members; Speaker is the *ex-officio* Chairman. The Minister of Parliamentary Affairs and one or more Members of the panel of Chairmen are nominated to this Committee.[126] The Deputy Speaker is invited to attend the sittings of the Committee as a special invitee.

Suggestions for amendments or additions to the Rules can be made by any member including a Minister; the Committee can also make suggestions in this regard.[127]

All these suggestions are placed in the form of memoranda before the Committee which considers them and makes recommendations. These are laid on the Table of the House. If a member desires to suggest any amendment to the recommendation, he can do so within seven days of its being laid on the Table and it is considered by the Committee. Thereafter the final report is laid on the Table and on a motion made by a member of the Committee the amendments are approved by the House. These are then promulgated in the Bulletin.

If no notice of amendment to the recommendations is received within seven days, the recommendations are deemed to have been approved by the House and on the expiry of the said period, the amendments to the Rules as recommended by the Committee are promulgated in the Bulletin under orders of the Speaker. In the Rajya Sabha the Committee consisting of sixteen members is nominated by the Chairman, Rajya Sabha normally for one year. Chairman, Rajya Sabha or in his absence Deputy Chairman or in his absence any member chosen by the Committee acts as Chairman of the Committee.[128]

(xx) Joint Committee on Salaries & Allowances of Members of Parliament

A Joint Committee of both the Houses of Parliament constituted to frame rules under Salary, Allowances and Pension of Members of Parliament Act, 1954.[129]

In the U.K., in earlier times, payment to the Members was the responsibility of the constituency which they represented; but after 1912, when the House of Commons passed resolution, Members are paid from the national fund. A Select Committee is appointed from time-to-time to review the salaries and allowances of Members.[130]

In Indian Parliament, the Joint Committee on Salaries & Allowances of Members of Parliament is constituted under Section 9 of Salary, Allowances

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[125]May, p. 6
[126]Kaul & Shakdher, p. 868
[127]*Ibid*, p. 869
[128]*Ibid* p. 870 Rules 216-220 (R.S.)
[129]Kaul & Shakdher, p. 876
[130]May, pp. 18, 19, 20 and 23

and Pension of Members of Parliament Act, 1954. It consists of five members from Rajya Sabha nominated by the Chairman and ten members from Lok Sabha nominated by the Speaker who hold office for one year. The Committee elects its Chairman from amongst its members; he is empowered to regulate its procedure.[131]

The Joint Committee, after consultation with the Government, makes rules for matters like medical, housing, telephone, postal facilities, Constituency Allowance, Office Expenses Allowance, advance for the purchase of conveyance etc. and generally regulates the payment of daily and travelling allowances and pension under Salary, Allowances and Pension of Members of Parliament Act, 1954.

The Joint Committee does not present its report to either of the Houses, but copies of the minutes approved by the Chairman are circulated to the members of the Joint Committee, Rajya Sabha Secretariat and the Ministry of Parliamentary Affairs.[132]

The Rules made by the Joint Committee take effect only when they are approved and confirmed by the Chairman of Rajya Sabha and the Speaker of Lok Sabha and are published in the official gazette.[133]

(xxi) Committee on Subordinate Legislation

A Parliamentary Committee to scrutinise whether powers to make regulations, rules, sub-rules, bye-laws are being properly exercised within the sphere of delegation.[134] In the House of Commons, Select Committee on statutory instruments scrutinised instruments till 1973; since 1973 Joint Committee on statutory instruments is entrusted with this function. Select Committee on statutory instruments consist of eleven members while Joint Committee consists of seven members of each House; two members form quorum. The Chairman is the Opposition member of the House of Commons[135]; draws special attention of the House if any instrument or draft involves expenditure of public moneys; which cannot be challenged in the Courts on the ground of being *ultra-vires;* which appears to use unexpected powers conferred by the Parent Act; which seeks to have retrospective effect unintended by the Parent Act; the laying of which is unduly delayed; which has come into operation before laying before Parliament or the purport of which needs elucidation; it cannot consider merits or policy of any instrument;[136] is empowered to call for explanation from any Government Department regarding any instrument or can take evidence about printing or publication of any instrument; authorised to report delay in publication of instruments and general tendencies in delegated legislation.[137]

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[131]Rules of Procedure and Conduct of Business in Lok Sabha, Appendix III, p. 171 (Tenth Edn.)
[132]Kaul & Shakdher, p. 877
[133]Rules of Procedure & Conduct of Business in Lok Sabha, App. III in Lok Sabha, p. 173 (Tenth Edn.)
[134]Rule 317 (L.S)
[135]May, p.591
[136]Abraham & Hawtrey, pp. 207, 208
[137]Wilding & Laundy, p. 682

In India, Committee on Subordinate Legislation, Lok Sabha consists of not more than 15 members who are nominated by the Speaker;[138] the term of its office does not exceed one year; [139] examines Bills containing provisions for delegation of powers to ensure that it makes provision for laying orders on the Table of the House;[140] examines the extent of powers to be delegated to a subordinate authority and its necessity;[141] reports to the House whether provision of delegated legislation should be annulled or amended before the House considers a Bill delegating legislative powers;[142] scrutinises all orders published in Gazette or laid on the Table of the House;[143] considers whether an 'order' should be dealt with in an act of Parliament; whether it contains imposition of tax; whether it bars jurisdiction of Courts; whether it gives retrospective effect to any provision not approved by the Parent Act; whether it involves expenditure from Consolidated Fund of India or the Public revenues; whether it appears to make some unusual use of powers conferred by the Constitution or Parent Act; or the laying of which is unduly delayed whether for any reason its form or purport calls for any elucidation;[144] if the Committee is of the view that an order should be annulled or amended in any respect, the Committee reports its opinion to the House. In the Rajya Sabha the Committee consisting of fifteen members is nominated by its Chairman normally for a period of one year. The Chairman of the Committee is appointed by the Chairman, Rajya Sabha from amongst its members.[145]

(xxii) Committee on the Welfare of Scheduled Castes and Scheduled Tribes

A Parliamentary Committee in India for considering all matters concerning the welfare of Scheduled Castes and Scheduled Tribes; consists of 30 members, 20 from Lok Sabha and 10 from Rajya Sabha; its term of office is one year; Chairman is appointed by the Speaker from amongst the members of the Committee;[146] selects subjects within its term of reference; asks Ministries/Undertakings to furnish material on the subjects; prepares questionnaire after taking into account suggestions made by Members; appoints Sub-Committees and Study Groups for intensive study of the subject; considers representations from Scheduled Castes and Scheduled Tribes; considers reports submitted by National Commission for Scheduled Castes and Scheduled Tribes; undertakes on-the-spot visits while examining the subjects; takes evidence of official and non-official witnesses; reports on the action taken by the Union Government and the Union Territories on the measures proposed by the Committee, examines measures taken by the Union Government to secure

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[138]Rule 318(1) (L.S)
[139]Rule 318(2) (L.S.)
[140]Direction 103(2)
[141]Direction 103(A) (i) & (ii)
[142]Direction 103(A) (2)
[143]Kaul & Shakdher, p. 853
[144]Rule 320 (i) to (ix) (LS)
[145]Rule 321(1) (LS), Rule 205 (Rajya Sabha)
[146]Kaul & Shakdher, pp. 879-80, Rule 331A; and Rule 331(B) (2) (LS) and Kaul & Shakdher, p. 880

representation of Scheduled Castes and Scheduled Tribes in Central Government services (including appointments in the Public Sector Undertakings, statutory and semi-government bodies and in the Union Territories); reports on the working of welfare programmes for Scheduled Castes and Scheduled Tribes in Union Territories;[147] the reports are presented to both the Houses by Chairman or any other member of the Committee authorised for that purpose; minutes of the sittings of the Committee are also laid on the Table of both Houses of Parliament;[148] reports showing action taken by Govt. on the Committee's recommendations are also prepared and presented in the same manner as original reports.

[147]Rule 331 (A) (a) to (d) (LS)
[148]Kaul & Shakdher, p. 883

COMMONWEALTH PARLIAMENTARY ASSOCIATION

The Commonwealth Parliamentary Association is an organisation composed of Branches formed in the legislatures of various Commonwealth countries. It consists of main Branches formed in the National Parliaments of Commonwealth, State and Provincial branches formed in State or Provincial Legislatures within member countries of the Commonwealth and territorial Parliaments.

The aims of the Associations are to promote knowledge and education about constitutional, legislative, economic, social and cultural systems within a parliamentary democratic framework with particular reference to the countries of the Commonwealth of Nations and to countries having close historical and parliamentary associations with it. It pursues these objectives by means of annual Commonwealth Parliamentary Conferences and regional Conferences, interchange of delegations, seminars, publications etc.

The Commonwealth Parliamentary Association was founded in 1911 as the Empire Parliamentary Association and its affairs were administered by the United Kingdom Branch. Evolving with the Commonwealth, the CPA adopted in 1948 its present name, changed its rules to enable all member Branches to participate in the Association's management and established a separate secretariat to manage its affairs.

Branches of the Association now exist in 115 national, state, provincial and territorial Parliaments.

The Headquarters of the Commonwealth Parliamentary Association is in London. It is headed by the Secretary-General. He is the Association's Chief Executive Officer responsible for day to day management of the affairs of Association. The Officers of the Association are: the President and Vice-President, each elected for one year by the General Assembly; the Chairman of the Executive Committee, who is elected for three years by the General Assembly and the Treasurer, who is elected for three years by the General Assembly from among the Association's members.

The President is chosen from the Branch which is to host next Commonwealth Parliamentary Conference and the Vice-President from the Branch to be host in succeeding year.

The Executive Committee also elects one of its Members to act as Vice-Chairman for one year.

The General Assembly is the supreme authority of the Association. It is constituted by all delegates attending the annual Commonwealth Parliamentary Conference.

The Constitution of the Commonwealth Parliamentary Association vests in an Executive Committee the control and management of the activities and business of the Association.

The Committee consists of 25 members comprising the officers of the Association and three members chosen from each region, known as Regional Representatives. The Committee reports to the General Assembly.

India is a member of Commonwealth Parliamentary Association. Besides the Main Branch at the Centre (Parliament of India), there are 25 branches in State legislative assemblies and one in the Union Territory of Pondicherry. The Indian Parliamentary Group, which consists of sitting members of Parliament and associate members, functions as the National Group of India Branch of the Association.

COMMUNICATIONS

Information, message, giving and receiving of information by talk, gesture, writing etc.;[1] means of giving information;[2] act of imparting (esp. news); information given;[3] information imparted by one person to another;[4] messages passed between the Head of the State and Parliament and between the Houses of Parliament etc.

In British Parliament, communications are exchanged between Crown and either House of Parliament and also between both Houses of Parliament pertaining to Royal speech, Bill or other Parliamentary deliberations etc.[5] Communications from the Crown to either House may be in the nature of verbal messages, delivered by a Minister of the Crown[6]. The modes of communication are by message; by Joint Committees; and by Select Committee of both Houses communicating with each other.[7] Messages are transmitted by the Clerks from one House to the other.[8] In U.K. communications are also exchanged between both Houses and the Royal family. The presence of Ministers of the Crown in Parliament means that the Sovereign, Her Ministers and Parliament are in constant informal communication.[9]

In Indian Parliament, communications are exchanged between the President and either House of Parliament and between both the Houses of Parliament. The President may send a message to either House of Parliament with respect to a Bill pending before it or otherwise and a House which receives such message shall consider any matter required by the message with all convenient despatch.[10] The President may also send a message to Parliament for the purpose of summoning both Houses to meet in a Joint sitting for the purpose of deliberating and voting on a bill other than a money bill.[11]

Communications from House to the President are made (i) by formal address after motion made and carried in the House; and (ii) through the Speaker.[12]

Both Houses of Parliament exchange written messages for the purpose of transmission of Bills, motions and resolutions passed by one House and which have to be sent to the other House for information or concurrence. A message of a House is communicated by its Secretary-General to the Secretary-General of other House who reports the message to the House.[13]

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[1]Webster, p. 296
[2]Chambers, p. 194
[3]Oxford, p. 244
[4]Anderson, p. 213
[5]May, p. 601
[6]*Ibid,* p. 600, 601 & 602
[7]*Ibid,* p. 610
[8]Wilding & Laundy, p. 160
[9]May, pp. 600, 610
[10]Art. 86(2)
[11]Art. 108(1)
[12]Rule 247(LS)
[13]Kaul & Shakdher, p. 35

COMPENSATION

Anything given as an equivalent, or to make amends for a loss.[1]

The return which is given for something else, recompense, remuneration as for services rendered by an officer, agent, attorney etc.; remuneration for loss of time expenditure for permanent disability; amends for privation of a thing, an equivalent for property taken for a public use.[2]

Private property can be acquired by the state for public purposes by paying compensation. In U.K., although the Parliament has the power to take private property without payment of compensation, it is secured by the judiciary by applying the rule of statutory construction.[3] The Constitution of the U.S.A. provides for just compensation for taking private property:[4] the Constitution of Australia too provides for reasonable compensation for acquiring private property; similarly, the Japanese Constitution provides for just compensation for taking private property for public use.[5]

In India, compensation at not less than market value is required to be paid for acquiring land held by a person under his personal cultivation which is within the ceiling limit applicable to him under any law for the time being in force.[6]

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[1]Oxford, p. 216
[2]Anderson, p. 216
[3]Basu, 6th edn., Vol. D, p. 303
[4]*Ibid*, p. 298
[5]*Ibid*, pp. 304-305
[6]Art. 31

COMPLAINTS OF PRIVILEGE BY MEMBERS — PROCEDURE REGARDING

In the House of Commons, a Member who wishes to raise a complaint of privilege is required to give a written notice to the Speaker soon after the alleged contempt or breach of privilege has occurred. Speaker has discretion to decide whether the matter should have the precedence accorded to matters of privilege. If he decides not to allow precedence, he informs the Member. If he allows precedence, even then he informs the member when he proposes to announce his decision to the House. After the announcement, the member is entitled to table a motion for the following day, formally calling attention to the matter and either proposing that it be referred to the Committee of Privileges or making some other appropriate proposition. The decision of the Speaker not to allow precedence in no way limits the Member's right to avail himself of other procedures for raising his complaint.[1]

A member who wishes to raise a question of breach of a privilege in the Lok Sabha, should obtain the prior consent of the Speaker.[2] He is required to give a notice in writing to the Secretary-General before the commencement of the sitting on the day the question is proposed to be raised;[3] If the question of privilege is based on a document, it should also be submitted alongwith the notice. Speaker may either give or withhold consent to the raising of question of privilege in the House. The member concerned is then informed of the Speaker's decision.[4]

When the matter is of an immediate nature and there is no time to give a notice, the Speaker may permit a member to raise the question without previous notice in writing.[5]

Where the Speaker gives his consent to the question being raised, the member who tabled the notice seeks the leave of the House and makes a short statement relevant to the question of privilege. After leave is granted, the matter is either considered and decided by the House or referred by it to the Committee of Privileges for examination and report. [6, 7 & 8]

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[1]May, pp. 144-45
[2]Rule 222 (LS)
[3]Rule 223 (LS)
[4]Kaul & Shakdher, p. 295
[5]*Ibid*, 295
[6]*Ibid*, pp. 297-98
[7]Rule 225 (LS)
[8]Rule 226 (LS)

COMPTROLLER AND AUDITOR-GENERAL

The officer who is responsible for the auditing of all public accounts.[1]

In U.K. the appointment of Comptroller and Auditor-General was first created in 1866; appointed by letters Patent on the nomination of the Prime Minister;[2] holds office during good behaviour and can be removed only on an address from both Houses of Parliament.[3] His salary is charged on the Consolidated Fund and not provided for in the estimates;[4] wide knowledge and experience of the administration of government departments are indispensable to his job. His main duty is to examine the accounts of the various departments of government and to satisfy himself that all moneys appropriated have been applied to the purposes intended and approved by Parliament. All other public accounts including those charged on the Consolidated Fund also are subjected to his scrutiny.[5]

Although an independent statutory officer, he is also an officer of the House of Commons and heads the National Audit Office and assists the House of Commons by controlling the issue of money granted by Parliament from exchequer on demand of treasury and by auditing the accounts of government departments and a wide range of public sector bodies on behalf of the House. C&AG together with the staff of the National Audit Office audits the Appropriation Accounts throughout the year which are later scrutinised by the PAC.[6] The C&AG attends all meetings of the PAC[7] and regularly appears as a witness.

In India, the Comptroller and Auditor-General is appointed by the President by warrant under his hand and seal and cannot be removed from his office except by an order of the President passed after an address to each House of Parliament;[8] he is not an Officer of Parliament;[9] he is an independent Constitutional authority, not directly answerable to the House. He is not eligible for further office under Government of India or any State after he ceases to hold office.[10] All salaries and administrative expenses relating to his office are charged upon the consolidated Fund of India and hence are non-votable.[11]

The Comptroller and Auditor-General audits the receipts and expenditure of the Union and the States. He has now been relieved of the duty to

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[1]Wilding & Laundy, p. 161
[2]*Ibid*, pp. 161-162
[3]Basu, Vol. H, 6th Ed, p. 45
[4]Wilding & Laundy, p. 161
[5]*Ibid*, pp. 161
[6]May, pp. 209, 677, 760
[7]Wilding & Laundy, p. 162
[8]Kaul & Shakdher, p. 147
[9]*Ibid*, p. 147
[10]Art. 148(4)
[11]Art. 148(6)

compile the accounts.[12] The main duties are to audit and report on (i) all expenditure from the Consolidated Fund of India and of each State and each Union Territory having a legislative assembly; (ii) all transactions of the Union and of the States relating to Contingency Funds and Public Accounts; (iii) all trading, manufacturing, Profit and Loss accounts etc. kept by any Department of the Union or of the State; (iv) all receipts and expenditure of all bodies and authorities substantially financed from the Union or State revenues. He also audits the accounts of Government companies in accordance with the Provisions of the Companies Act as well as other Corporations or bodies when required by the Law relating to such Corporations.[13]

The reports of the Comptroller and Auditor-General relating to the accounts of the Union are presented to the President who causes them to be laid before Parliament. Similarly the reports relating to the States are presented to the Governor who causes them to be laid before the Legislature of the State.[14]

These reports stand automatically referred to the Committee on Public Accounts which form the basis of investigation by the Committee. The Comptroller and Auditor-General assists the Committee in considering various points relating to accounts.[15]

The Comptroller and Auditor-General in India mainly functions as an Auditor and has no control cover the issue of money. In U.K., the Comptroller and Auditor-General assists the House of Commons by controlling the issue of money granted by Parliament from the Exchequer on the demand of the Treasury and by auditing the accounts of the departments on behalf of the House.[16]

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[12]Basu, 6th edn. Vol. H, p. 51
[13]*Ibid*, p. 52
[14]Art. 151(1) & (2)
[15]Kaul & Shakdher, p. 150
[16]May, p. 209

CONCURRENT LIST

A list of subjects appended to a federal Constitution in respect of which the federal legislature and the state or regional legislatures have power to make laws, federal law prevailing in case of conflict.[1] The object of a concurrent list of subjects over which the Centre and the units have concurrent powers is uniformity.[2] Legislative list in the Indian Constitution comprising 47 subjects over which both Union and States can legislate.[3] Known also as List III. Union law prevails where state law is repugnant to it.[4] The question of repugnancy arises in case of subjects enumerated in concurrent list.[5]

[1]Wilding and Laundy, p. 132
[2]Basu, Vol. 4, 5th edn., 178
[3]Art. 246, VIIth Schedule
[4]Art. 254 (i)
[5]Deep Chand *V.* State of U.P., A.I.R., 1959, S.C. 648

CONDUCT

Behaviour (esp. in its moral aspect)[1]; department; the way one acts[2] bearing with respect to propriety, morals and requirements of law.[3]

The standard of conduct the Members of Parliament are expected to observe in order to maintain the highest traditions in Parliamentary life.[4]

The behaviour of the members of Parliament should be such as to enhance the dignity of Parliament and its Members in general. The extent and amplitude of the words "Conduct of a member" have not been defined exhaustively; it is within the powers of the House in each case to determine whether a member has acted in an unbecoming manner or has acted in a manner unworthy of a member of Parliament.[5] A few illustrations bearing on the conduct of Members are given below:—

(i) a member should not try to secure business from government for a firm, company etc. with which he is directly or indirectly concerned;

(ii) a member should not unduly influence Government officials or Ministers in a case in which he is interested financially;

(iii) members should not receive hospitality of any kind for any work he does or proposes to do;

(iv) information given to members in confidence should not be divulged etc.[6]

Misconduct of Members amounting to breach of privilege or contempt of the House is inquired into by the Committee of Privileges. Conduct which does not technically violate any privilege of the House, and yet is unbecoming of a Member of Parliament, is also punishable by the House. In the House of Commons, a special committee is set up on a motion moved in the House to inquire into such conduct.[7]

The Speaker is invested with authority to repress disorder which take place insides the House. When a member persists in disorderly conduct, the Speaker orders him to withdraw forthwith from the House, for the remainder of the sitting; if the Speaker thinks that the authority and dignity of the House is not sufficiently vindicated by this course of action, he may name the member and suspend him from the service of the House.[8] The House has the power

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[1]Oxford, p. 253
[2]Webster, p. 305
[3]Anderson, p. 114
[4]Kaul & Shakdher, p. 306
[5]*Ibid*, p. 307
[6]*Ibid*, p. 306
[7]*Ibid*, p. 307
[8]May, pp. 392, 393, 394, 395

also to expel a member for committing offences like forgery, perjury, frauds and breaches of trust, misappropriation of Public money, conspiracy to defraud, fraudulent conversion of property, corruption in the administration of justice or in Public Offices or in the execution of their duties as member of the House etc. The House also expels members who flee from justice; however, expulsion does not create any disability to serve again in Parliament if he is re-elected.[9]

The Indian Parliament too has the power to punish its members for their misconduct either inside or outside the House. The procedure followed is that a special Committee is set up on a motion to inquire into the alleged misconduct and find out whether such conduct was derogatory to the dignity of the House and inconsistent with the standards expected of a member. [10]

In case misconduct is proved, the House can impose punishments such as admonition, reprimand, withdrawal from the House, suspension from the service of the House, imprisonment and expulsion from the House. In case of grossly disorderly conduct of a member in the House, the Speaker may direct him to withdraw immediately from the House. If he persists in disregarding the authority of the Chair, he may be named by the Chair and suspended from the service of the House.[11]

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[9]May, pp. 140, 141-142
[10]Kaul & Shakdher, p. 307
[11]*Ibid*, pp. 307-308

CONSOLIDATED FUND

United product of various taxes etc.[1]; a British national fund created by consolidating various revenues and used to pay interest on the public debt, grants to the royal family and other charges[2]; a repository of public money which now comprises the produce of customs, excise, stamps and several other taxes, and some small receipts from the royal hereditary revenue surrendered to the public use[3] the fund into which are paid all proceeds of taxes and other revenues of the state, and out of which all Government expenditure is made.[4]

Consolidated Fund is the foundation stone of Parliamentary supervision and control over the finances in England.[5] All the gross revenues which include proceeds of taxes, post office profits, land revenues and repayments on foreign loans are deposited in exchequer's account at the Bank of England which forms the Consolidated Fund. Not a single penny can be taken out from this fund without prior authorisation of Parliament. The sums of money are voted and approved by the House of Commons in the form of demands of various departments which are later transferred into the account of Paymaster General who makes them available to the various departments.[6]

However, certain expenditure charged upon the Consolidated Fund does not require the accual approval of Parliament. These payments are made under permanent Statute.[7] Such payments are made to the National Loans Fund for national debt service, salaries of the Speaker of House of Commons, Judges, Comptroller and Auditor-General, Parliamentary Commissioner for Administration, Data Protection Registrar, Leader of Opposition and the expenses of returning officer at Parliamentary elections.[8]

In India, the Union as well as each of the States has a Consolidated Fund; the fund of the Union is called the Consolidated Fund of India and that of a State the Consolidated Fund of the State.[9] All the revenues received by the Government of India, all loans raised by issuing treasury bills, loans or ways and means advances and all moneys received in repayment of loans form one Consolidated Fund of India while all revenues received, loans raised and all moneys received in repayment of loans by the Government of a State

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[1]Oxford, p. 260
[2]Webster, p. 314
[3]Wharton, p. 238
[4]Abraham & Hawtrey, p. 79
[5]Basu, Vol. K, 6th edn. p. 242
[6]Wilding & Laundry, p. 170
[7]Abraham & Hawtrey, p. 79
[8]May, p. 737
[9]Art. 266(1)

form the Consolidated Fund of the State.[10] No moneys can be issued out of this fund except in accordance with a law made by the concerned legislature and for the purposes and in the manner provided in the Constitution.[11]

The emoluments and allowances of the President and other expenditure relating to his office, salaries and allowances of the Chairman and Deputy Chairman of Rajya Sabha, the Speaker and Deputy Speaker of Lok Sabha, debt charges for which Government of India is liable, salaries, allowances of judges of the Supreme Court, the salary, allowances and pension of the Comptroller and Auditor-General of India and any sums required to satisfy any judgement, decree or award of any court or tribunal etc. are charged upon the Consolidated Fund of India and are not submitted to the vote of Parliament.[12] Similarly, the emoluments and allowances of the Governor and other expenditure relating to his office, the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly and, in the case of the State having a legislative Council also of the Chairman and Deputy Chairman of the Legislative Council, debt charges for which the State is liable, expenditure in respect of the salaries and allowances of Judges of any High Court and any sums required to satisfy any judgement,decree or award of any court of arbitral tribunal, shall be charged upon the Consolidated Fund of the State.[13]

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[10] *Ibid.*
[11] Art. 266(3)
[12] Art. 112.(3)
[13] Art. 202(3)

CONSOLIDATION OF BILLS

The act of combining into one Act a number of Acts of Parliament relating to the same subject.[1]

In the House of Commons, the House instructs the standing committees to consolidate bills into one Bill.[2]

In the Lok Sabha, no rule exists which permits of consolidation of Acts relating to the same subjects.

[1]Wilding & Laundy, p. 171
[2]May, pp. 626, 708

CONSTITUENT ASSEMBLY

A legislative body charged with the task of framing or revising a Constitution; set up for India after it became independent in 1947 for the purpose of framing its Constitution.[1]

[1]Wilding & Laundy, p. 273

CONSTITUTION

The system of fundamental laws and principles of a government written or unwritten[1]; system of laws and customs established by sovereign power of a state for its own guidance[2]; body of fundamental principles according to which a state is governed[3]; laws and usages which govern its characteristic features[4]; a basic law defining and delimiting the principal organs of Government and their jurisdiction as well as the basic rights of men and citizen[5]; Constitution of a country may either be written or unwritten. Unwritten constitutions are flexible while written Constitutions are not necessarily rigid. Constitution can be amended or altered only with some special legislative process[6]; U.K. has an unwritten Constitution composed of customs conventions and regular acts of Parliament.[7]

Indian Constitution consists of 395 articles incorporating among other things fundamental rights; duties and directive principles of State policy. Constitution endows union Parliament the Constituent Power; *i.e.* Power to amend the Constitution.[8] Indian Constitution is republican and federal in character; it embodies salient features of Parliamentary system providing for Parliament consisting of President and the two Houses of Parliament.[9]

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[1]Webster, p. 315
[2]Chambers, p. 205
[3]Oxford, p. 205
[4]Anderson, p. 236
[5]Dunner, p. 118
[6]Wilding & Laundy, p. 174
[7]Dunner, p. 118
[8]Kaul & Shakdher, p. 5
[9]*Ibid*, p.1

CONSTITUTIONAL LAW

Law relating to the Constitutions, the rules which regulate the structure of the principal organs of government and their relationship to each other, and determine their principal function.[1]

[1]Wade and Phillips, p. 3

CONSTITUTIONALITY OF LAW

The law being in accordance with the provisions of the Constitution of a country.

The constitutionality of a law can be challenged only by the person directly affected[1]. No person can challenge a statute affecting *bone vacantia*[2].

[1]Chiranji Lal *Vs.* Union of India, A.I.R., 1951, S.C. 41.
[2]Bombay Dyeing *Vs.* State of Bombay, A.I.R., 1958, S.C. 328

CONTEMPT OF COURT

Wilful disobedience to or open disrespect for the rules or orders of a court. An act showing such disrespect[1]. A disobedience to or disregard of the rules, orders, process, or dignity of a court, which has power to punish for such offence by Committal[2]. The violation of an order or direction of the court constitutes contempt of court, provided the violation is wilful[3].

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[1]Webster, p. 438 (Random House)
[2]Wharton's Law Lexicon, 244
[3]Haryana SAS Vs. State of Haryana, AIR, 1990, SC 968

CONTEMPT OF THE HOUSE

Disobedience to the authority of the Houses of Parliament or other legislative body[1].; an offence against the dignity of Parliament[2]; act of showing disrespect for the authority or dignity of a legislature by disobedience or disorderly conduct[3]., wilful disregard of the authority of a Court or legislature[4]. In British Parliament, any act or ommission which either directly obstructs the due proceedings of either House or tends to produce that effect bringing its authority into contempt[5] any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results is treated as a contempt even though there is no precedent of the offence[6]; any disorderly, contumacious or disrespectful conduct, in the presence of either House or any committee thereto...whether by strangers present or by persons attending as parties or witnesses, amounts to a contempt[7]; disobedience to the order of either House or contravention of any rules of either House also amounts to contempt of that House; disobedience to the orders of a Committee appointed by House constitutes contempt of that House which appointed the Committee[8]; neglect or breaches of duty by Members or officers of either House is also treated as contempt of the House[9]; speeches or writings reflecting on the House, publication of false or perverted reports or debates, premature publication or disclosure of a Committee's proceedings or evidence also amount to contempt of the House [10]; other acts besides words spoken or writings published reflecting upon either House or its proceedings which, though they do not tend to directly obstruct or impede either House in the performance of its functions, yet have a tendency to produce this result indirectly by bringing such House into odium, contempt or redicule or by lowering its authority also constitute contempts[11]; arrest of a Member of House of Commons during a Session of Parliament or preceeding forty days except on a criminal charge is a contempt of the House[12]; any act obstructing Officers of either House entrusted with execution of the orders of either House amounts to contempt of the House[13].

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[1]Oxford, p. 263
[2]Chamber, p. 207
[3]Webster, p. 249
[4]Anderson, p. 242
[5]Abraham & Hawtrey, p. 80
[6]May, p. 108 and Kaul & Shakdher, p. 256
[7]May, p. 108
[8]*Ibid,* pp. 110-11
[9]*Ibid,* pp. 111-130
[10]*Ibid,* pp. 118-19, 670
[11]*Ibid,* p. 118-19; Kaul & Shakdher, p. 256
[12]May, p.121
[13]*Ibid,* p. 125-126

Both Houses of Parliament in U.K. are empowered to punish its members for contempts committed in the House by his committal to its own custody or one of Her Majesty's prisons.They also enjoy power to punish for contempts committed by persons who are not its members within the House or outside the Parliament[14]. The offender has to answer charge of contempt in the custody to the Bar in respect of contempt of House of Commons and before the House of Lords in respect of contempt of House of Lords.

In India, any misconduct in the presence of the House or any of its Committees by members of Parliament or by members of the Public admitted to the galleries of the House or to sittings of Committees as witnesses constitutes contempt of the House. Acts like interrupting the proceedings of the House, refusal by a witness to make an oath, giving false evidence, presenting false, forged or fabricated documents to either House or its Committee, constitute contempt of the House[15].

Each House of Parliament and State Legislature is empowered to punish for contempt of the House by committing the offender to custody or prison. If the contempt is committed in the presence of the House, the contemner may be interrogated and let off after acceptance of apology by the House or if he is to be punished, the House may decide it by passing a motion[16].

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[14] *Ibid,* p. 111-130
[15] Kaul & Shakdher, p. 277
[16] *Ibid,* pp. 256-260

CONTINGENCY FUND

The Fund placed at the disposal of the executive to meet the unforeseen expenditure.

In England, the limit of this Fund is fixed by statute. It provides fund for the expenditure in excess of the amount granted in a vote of account, expenditure of new unforeseen services, expenditure in excess of the provisions on the sub-heads which may not be financed from the savings on other heads and the expenditure on the existing services where sums appropriated have already been exhausted; no final charge rests on this Fund; the funds are later invariably voted by Parliament and repaid to the Fund. The accounts of the Fund are annually presented to the House of Commons[1].

The Contingency Fund of India is established and regulated by law made by Parliament and Contingency Fund of a State by the Legislature of that State [2]; the Contingency Fund of India was established by Parliament with a sum of Rs. 15 crores, by enacting the Contingency Fund of india Act[3]; The amount of the Fund was increased to Rs. 50 crores by amending the Act in 1976 (Act No. 81 of 1976) this Fund is in the nature of an imprest and shall be placed at the disposal of the President.[4]

The fund provides the legal source of money required to meet unforeseen expenditure pending authorisation by the legislature. No money can be withdrawn from the Consolidated Fund of India except under the authority of an Act of Parliament; on the other hand Appropriation Act passed at a particular date can foresee all possible expenditure. Thus Contingency Fund, placed at the disposal of executive, act as a harmonising device[5]; the expenditure incurred from the advances made by the President out of this fund shall have to be authorised by Parliament subsequently in the shape of supplementary grants[6].

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[1]May, p. 753
[2]Art. 267 (1) & (2)
[3]Basu, Vol. K. p. 248
[4]Art. 267(1)
[5]Basu, Vol. K (6th edition). p. 248
[6]*Ibid,* p. 248

CONTRACT

Agreement enforceable by law[1]; an agreement usually written, enforceable by law[2].

A deliberate enagagement between competent parties upon a legal consideration to do or to abstain from doing some act[3]; an agreement between competent parties, to do or to abstain from doing some act[4].

The Governments can enter into contracts with others, for any purpose. In England, however, the Crown or its agents cannot fetter its future executive authority in the performance of its govermental function or functions affecting the public good; it cannot also fetter the legislative authority by contract. In U.S.A. too the same principle has been evolved[5].

In India, the union government as well as the goverment of a state can make contracts for any purpose; these are expressed to be made by the President in respect of the union and the Governor in respect of a state; however, neither the President nor the Governor is personally liable in respect of any such contract[6].

The President, acting in the exercise of his executive power, cannot fetter the legislative authority of Parliament. Thus, Parliament can vary the terms of a grant made by the State; contractual rights of individuals are not guaranteed against the state by the Indian Constitution.[7]

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[1]Oxford, p. 268
[2]Webster, p. 251
[3]Stroud, Vol. I, pp. 517-21
[4]Wharton, p. 248
[5]Basu, (Vol. 4) (5th edn.) pp. 400-401
[6]Arts. 298, 299
[7]Basu, (5th edn.); p. 401

CORPORATION

United body of person esp., one authorised to act as an individual[1]; a body or society authorised by law to act as one individual[2]; a group of people who get a Charter granting them as a body certain of the legal power, rights, privileges and liabilities of an individual, distinct from those of the individuals making up the group.[3]

An artificial being, indivisible, intangible and existing only in contemplation of law.[4]

A corporation has a legal entity separate from that of its holders[5]; a corporation has no right under Art. 19 of the Constitution of India.[6]

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[1]Oxford, p. 279
[2]Chambers, p. 305
[3]Websters, p. 259
[4]Anderson, p. 260
[5]Chiranji Lal V/s Union of India, 1950, S.C.R. 869
[6]Tata Engineering Co. *V/s* State of Bihar, A.L.R., 1965, SC, 40

CORPORATION TAX

A tax levied on the income of the Companies.[1]

The Corporation tax, in India, is not chargeable in respect of agricultural income; no deduction in respect of this tax is allowed from dividends payable by the companies to individuals; the tax paid is also not taken into account in computing the total income of individuals receiving such dividends, or in computing the income tax payable by or refundable to such individuals[2] a tax that companies pay on their profits.[3]

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[1]Chambers, p. 305
[2]Art. 366(6)
[3]Oxford, p. 280

COUNCIL OF MINISTERS

A body of Ministers headed by the Prime Minister[1]; consists Ministers belonging to categories of Cabinet Ministers, Ministers of State and Deputy Ministers. The total number of Ministers, including the Prime Minister, in the council of Ministers shall not exceed fifteen per cent of the total number of members of the House of the people.[2] The entire Council of Ministers rarely meets to transact any State business; Cabinet comprising selected Ministers from Council of Ministers appointed by Prime Minister acts and exercises all powers on behalf of Council of Ministers.[3] In U.K. though the term 'Council of Ministers' is not used there are 'ministerial office holders'[4]; who are categorised as Cabinet Ministers, Ministers of State and Parliamentary Secretaries. Cabinet Ministers and Ministers of State are chosen by the Prime Minister and appointed by the Crown on his advice[5]; while Parliamentary Secretaries are selected by the Prime Minister in consultation with the Minister concerned. Since they are not appointed by the Crown, they are not Ministers of Crown but Junior Ministers[6]. However, the Ministers who are not in the Cabinet are also invited to Cabinet meetings if the discussions pertain to affairs of their department and enjoy same rights and responsibilities like Cabinet Ministers. Principle of collective responsibility applies to them as well. They are also appointed Members of Cabinet Committee.[7]

In India Prime Minister is appointed by President and other Ministers are appointed by President on the advice of Prime Minister who hold office during the pleasure of the President.[8]

The Council of Ministers is collectively responsible to Lok Sabha[9] implying that no confidence motion can be moved in the Council of Ministers as a whole and not in an individual Minister.

Before a Minister enters upon his office the President is required to administer him the oaths of office and secrecy[10]. A Minister who is not a Member of either House of Parliament for any period of six consecutive months ceases to be a Minister at the expiration of that period[11]. Courts cannot enquire into the advice tendered by Ministers to the President[12].

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[1]Art. 74 (1)
[2]Art. 75-1A Ins. By Constitution 91st Amendment Act, 2003
[3]Kaul and Shakdher, p. 121-122
[4]May, pp. 63-64
[5]Wilding & Laundy, p. 473
[6]*Ibid*, p. 544
[7]Encyclopaedia of Parliament Wilding & Laundy, p. 69
[8]Art. 75(1)
[9]Art. 75(3)
[10] Art. 75 (4)
[11]Art. 75(5)
[12]Art. 74(2)

COUNSEL

Body of legal advisers in Court[1]; lawyer or group of lawyers.[2]

A person retained by a client to plead his cause in a court of judicature.[3]

Counsels are allowed to appear before the Committees of Parliament on behalf of witnesses[4].

In U.K. promoters and opponents of Private Bills are allowed to appear before the Committees by Counsels[5]; similarly the parties whose interests are directly affected by a public Bill are also allowed to represent their claims by counsel[6]; persons accused of breaches of the privileges, as a rule, are not allowed to be defended by counsel; but in a few cases they have been allowed to be heard by counsel.[7]

In the Indian Parliament, a witness is permitted to be heard by a counsel in a committee; he is appointed by the Speaker and approved by the Committee; a witness is allowed to be heard by counsel only under the direction of Speaker[8].

(Also *see* under 'witness')

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[1]Oxford, p. 283
[2]Webster, p. 263
[3]Wharton, p. 269
[4]Rule 271
[5]Abraham & Hawtrey, p. 81
[6]May, p. 517
[7]*Ibid*, p. 145
[8]Rule 271

COURT

Supreme Court and High Court

Assembly of judges or other persons acting as tribunal[1]; a person or persons appointed to try cases, make investigations etc., judge or judges; law court[2]; a hall of justice, the judges and officials who preside there; any body of persons assembled to decide causes[3]; a place where justice is judicially administered[4]; the place where the sovereign administers justice by his judge or bishop, as the Supreme Court of Judicature[5].

In U.K. the House of Lords is invested with judicial functions, There are nine "Lords of Appeal in Ordinary" popularly known as "Law Lords" who sit as the Supreme Court of the United Kingdom under the Chairmanship of the Lord Chancellor. They are appointed as peers for life.[6]

In India, the Upper House, *i.e.,* the Rajya Sabha does not enjoy any such legal jurisdiction. There is a single integrated judicial system for the Union as well as the States for administration of both Union and State laws. At the apex of the entire system stands the Supreme Court vested with original and exclusive jurisdiction to determine justiciable disputes between the Union and the States or between the States *inter se.* The Supreme Court of India is the final appellate tribunal of the land, and in some respects, its jurisdiction is wider than that of the House of Lords. Supreme Court acts as the guardian of the Constitution[7]; it has power to issue directions or orders or writs including writs in the nature of habeas corpus, mandamus, prohibition, quo-warranto and certiorari for the enforcement of the fundamental rights[8]. Besides the above regular jurisdiction of the Supreme Court, it has an advisory jurisdiction, to give its opinion on any question of law or fact of public importance as may be referred to its consideration by the President[9].

There is a High Court for one State or for more States having original as well as appellate jurisdiction. The High Court has power to issue to any person or authority, including any government, orders, directions or writs including the writs in the nature of habeas corpus, mandamus, prohibition, quo-warranto and certiorari for the enforcement of any of the fundamental rights or for any other purpose[10]. Thus the jurisdiction of the High Court to

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[1]Oxford, 287
[2]Webster, 266
[3]Chambers, 311
[4]Stroud, Vol. I, p. 561
[5]Wharton, pp. 274-75
[6]Dunner, p. 243
[7]Introduction to the Constitution of India by Durga Das Basu, pp. 246 & 250 and Arts. 132 to 136
[8]Art. 32(2)
[9]Introduction to the Constitution of India, by D.D Basu, pp. 246-250 and Art. 143
[10]Art., 214 & 226

issue the writs is nore extensive than that of the Supreme Court[11]. Members of the State judiciary below the High Court are subordinate to the High Court and the control over the district courts and courts subordinate thereto is vested in it[12].

Although the Supreme Court as the final appellate court can revise the decisions of High Courts, the High Courts are not administratively subordinate to the Supreme Court[13].

[11]Basu, 6th edn. Vol. H, p. 286
[12]Art. 235 & Basu, p. 233
[13]Basu, p. 233

CUT MOTION

A motion or a porposal formally made in deliberative assembly for reduction of an expenditure[1]; moved in Parliament or State Legislature to reduce the amount of a demand[2].

In British Parliament, cut motion is in the form of an amendment which seeks simple reduction of an amount[3] demanded for increase or extension of a service. No amendment to increase the total sum of an estimate is in order[4]. It is worded in the form, "That class X, vote Y be reduced by £Z (in respect of sub-head.....)"; it may be tabled on behalf of a particular Select Committee which considered or reported an estimate or by any other Member. Any number of amendments can be tabled to a particular estimate but the Chair has the discretion to select amendments[5]. The debate on an amendment should be confined to the reasons why the reduction is sought.[6]

In Indian Parliament, during the discussion on the demands for grants, motion can be moved to reduce the amount of a demand; such a motion is called cut motion[7]. They are of three categories: (i) Disapproval of Policy Cut: it seeks to reduce the amount of demand to Rs. 1/-; the object of such a motion is to disapprove the policy underlying the demand; (ii) Economy Cut: it seeks to reduce the amount of a demand by a specified amount for effecting economy in expenditure; (iii) Token Cut: it seeks to reduce the amount of a demand by Rs. 100/- with a view to ventilating specific grievance within the sphere of responsibility of Government of India[8]. Cut motions are usually moved by members of the opposition as it amounts to a vote of censure or indirectly expresses 'no confidence' in the Council of Ministers[9]. In order to be admissible a cut motion shall *inter-alia* (i) relate to one demand only; (ii) be clearly expressed and not contain arguments, inferences ironical expressions imputations, epithets or defamatory statements; (iii) not relate to charged expenditure; and (iv) not raise a question of privilege.[10] Cut motions are grouped demand-wise and the *inter-se* arrangement of cut motions under a particular demand is—Disapproval of Policy Cut followed by Economy Cut and then Token Cut.[11] Cut motions cannot be moved by proxy.[12] They are moved by members present in the House by indicating their serial numbers at the commencement of the discussion.[13] At the end of the discussion, the cut motions are first disposed of and then the demands are put to vote.[14]

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[1]Oxford (Students) p. 151
[2]Rule 209
[3]May, p. 756
[4]*Ibid,* pp. 756
[5]*Ibid, p. 756*
[6]*Ibid*, p. 756
[7]Kaul & Shakdher, p. 713
[8]Rule 209
[9]Kaul & Shakdher, p. 713
[10]Rule 210
[11]Kaul & Shakdher, p. 713
[12]*Ibid,* p. 717
[13]*Ibid,* p. 716
[14]*Ibid,* p.710

D

DEBATE

Irrelevance in Limitation on

A formal contest of skill in reasoned argument with two teams taking opposite sides of a specified question[1]; a discussion[2]; a contention in words or argument[3]; a parliamentary discussion.

In the House of Commons debate takes place when a motion has been made and a question has been proposed from the Chair. It excludes, therefore, the asking and answering of parliamentary questions, ministerial statements (such as made after "question time") and personal explanation by Members. A member who wishes to speak in a debate must rise at the conclusion of another's speech and try to "catch the Speaker's eye". If he is successful, the Speaker calls him by name and he proceeds to make his speech.[4]

A speech in a debate must be relevant to the question before the House[5]. Members are expected to observe moderation of language in debate, and a number of words and expressions have at various times been decided by the Speaker to be "unparliamentary"[6]. A Member must direct his speech to the question under discussion or to the motion or amendment he intends to move, or to a point of order. The precise relevance of an argument may not always be perceptible but a Member who wanders from the subject will be reminded by the Speaker that he must speak to the question[7]. If a Member persists in irrelevance or tedious repetition either of his own arguments, or of the arguments used by other Members in debate, the Speaker, after calling the attention of the House to the Member's conduct, may direct him to discontinue his speech. If he refuses to obey the direction of the Chair, the Speaker may either direct him to withdraw from the House for the remainder of the sitting, or name him for disregarding the authority of the Chair.

A debate may be brought to an end by moving a closure motion with the permission of the Chair[8]. In the Indian Parliament, a debate takes place on a motion, resolution etc. moved in the House. Debate also takes place under short duration discussion although no formal motion has been moved; no

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[1]Webster, p. 296
[2]Oxford, p. 323
[3]Chambers, p. 344
[4]Abraham & Hawtrey, p. 82
[5]*Ibid,* p. 83
[6]*Ibid,* p. 85
[7]May, p. 393
[8]*Ibid,* p. 393; Rule 362

debate is allowed during Question Hour, calling attention and Half-an-hour discussion[9]. A member has to be relevant to the subject under discussion; if he persists in irrelevance the Speaker can direct him to discontinue his speech[10]. When the debate on any motion becomes unduly protracted, the Speaker can fix a time limit for its completion. At the appointed hour, the question is put forthwith and thus the debate on the subject is closed.[11]

[9]Rules 55, 179, 195, 197
[10]Rule 356
[11]Rule 363

DEBT

Obligation or liability to pay or return something;[1] what one owes to another[2]; a sum of money due by certain and express agreement or contract[3]; sum payable in respect of a liquidated money demand recoverable by action[4]; a sum of money reduced to a certainty and does not include a claim for uncertain damages[5]; the entries relating to debt of Union and States appear in the Seventh Schedule, which includes any liability of Union and State Governments in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee.[6]

[1]Webster, p. 296
[2]Chamber, p. 344
[3]Anderson, p. 315
[4]Stroud, 612-613
[5]Anderson, p. 315
[6]Art., 366(8)

DECENCY

Propriety of behaviour[1]; propriety of conduct and speech[2]; a term used in English common law as well as the Indian constitution to define the law on obscenity and the restriction on the freedom of speech and expression, respectively.

In U.K. the word 'indecent' is used in the sense of obscenity in statutes, relating to obscenity, conveys the idea of offending against the recognised standards of propriety.[3]

In India, the State can impose reasonable restrictions on the fundamental right to freedom of speech and expression on the ground of decency[4]. The meaning of the term will vary according to age, culture and alike things of the audience.[5]

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[1]Oxford, p. 324
[2]Webster, p. 297
[3]Basu (6th edn.), Vol. C, p. 125
[4]Art. 19(2)
[5]Rajni Vs. State, A.I.R., 1958, All, 360

DECREE

An official order, edict[1]; a judicial decision; to decide or determine by sentence in law[2]; the final order of a Court in a suit, it resembles judgement but is not identical to it;[3] is of two types—interlocutory and final; like a judgement at law; it is the sentence pronounced by the Court upon the matter of right between the parties which is based on the pleadings and proofs in the cause; pronounced on hearing and understanding all points in issue.[4]

An appeal can be made to the Supreme Court from any judgement decree or final order in a civil proceeding of a High Court in the territory of India if the High Court is of the opinion that the case involves substantial question of law of general importance and the question needs to be decided by the Supreme Court.[5]

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[1]Webster, p. 300
[2]Chambers, p. 348
[3]Stroud, Vol. 1, p. 620-621
[4]Anderson, p. 322
[5]Art. 133 (1) (a) & (b)

DEFECTION

Abandonment of loyalty, duty, principle etc.[1]; falling away from loyalty, to a political party (or its leader), religion or duty[2]; crossing the Floor by a Member of a Legislature.

Defection entails disqualification of a Member of an Indian Legislature[3]; it is not one of the grounds of disqualification of a Member of British Parliament[4]. However, disqualification does not apply in case of a merger of his party with another political party but not in case of a split in the original party.[5] Speaker, Deputy Speaker of Lok Sabha, Chairman, Deputy Chairman of Rajya Sabha, Speaker and Deputy Speaker of a State Legislative Assembly and Chairmen or Deputy Chairmen of Legislative Councils of State are exempted from disqualification as long as he holds that office and does not join any other party.[6]

Decision on questions as to disqualification on ground of defection shall be of the Speaker or the Chairman, as the case may be, of the House to which the Member belongs; the question of disqualification of the Speaker or the Chairman shall be decided by a Member to be elected by that House; no Court has any jurisdiction in the matter of disqualification of a Member on the ground of defection[7].

(Also *see* 'Floor Crossing')

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[1]Webster, p. 301
[2]Oxford (Learner) p. 329
[3]10th schedule and Art. 102
[4]May, pp. 38—51
[5]Tenth Schedule (Para 4&5), of Constitution of India
[6]P.D.T. Achary, p. 190
[7]Tenth Schedule Para 6 of Constitution of India.

DELEGATED LEGISLATION

Rules and Regulations with the effect of law made by the executive under statutory sanction by Parliament[1]. The Parliament lays down the principles of law and as it has not sufficient time to deal with minute details the executive may through delegated legislation work out the application of the law in greater detail within these principles and power may even be conferred to amend the statute itself by delegated legislation; a principle enacted in a statute may be extended by delegated legislation in a cognate direction; the commencement of a Statute may also be provided for by delegated legislation.[2]

In England, the practice of delegating legislative power increased tremendously after the Reform Bill of 1872 and reforms in local government; the first world was caused a further rapid rise in delegated legislation.[3]

Most of the delegated legislation is called statutory instruments; they are to be laid before Parliament and are subject to approval or disapproval by either House[4]; however the statutory instruments which are local are not subject to Parliamentary control[5]; breach of a statutory duty to lay an instrument before Parliament will not of itself invalidate the instrument.[6]

The technical scrutiny of statutory instruments is undertaken by the Joint Committee on Statutory Instruments; this Committee draws the special attention of Parliament to an instrument on ground, such as (i) it has been unjustifiably delayed in publication or being laid before Parliament (ii) it has retrospective effect when the parent statute does not so provide; (iii) it has not been notified in proper time to the Lord Chancellor and the Speaker when it comes into effect before being presented to Parliament etc.[7]

In Australia, the delegated legislation is scrutinised by the Senate Standing Committee. The principles which govern the delegated legislation are that it should not trespass unduly on personal rights and liberties, it should be concerned only with administrative detail and not amount to substantive legislation etc. In New Zealand, the Attorney-General is required to examine all regulations before they are issued to determine whether or not they are desirable; the Statutes Revision Committee considers them to determine whether they trespass unduly on personal rights and liberties. The regulations can be annulled by a motion to that effect in the House.[8]

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[1]Wilding & Laundy, p. 199 & May, p. 609
[2]May, p. 574
[3]Wilding & Laundy, p. 200
[4]May, p. 576
[5]*Ibid*, p. 578
[6]*Ibid*, p. 580
[7]*Ibid*, p. 591
[8]Wilding & Laundy, p. 201

In Canada, there is no special procedure for debating subsidiary legislation; also there is no procedure to annul it unless contained in the particular enabling Act. Regulations which are not subject to annulment in this manner can be annulled by passing a special Act of Parliament.[9]

In India, the expression used for this type of legislation is "Subordinate Legislation". On the basis of various judicial pronouncements, it can be taken as an established law in India that the essential legislative power of the Legislature cannot be delegated to any other body. Therefore, what is actually denoted by the expression "delegated legislation" and "delegation of legislative power" is the conferring of authority upon a subordinate authority to frame rules, regulations etc. Each regulation, rule, sub-rule, bye-law etc. framed in pursuance of the provisions of the Constitution or Act of Parliament under the powers delegated thereunder to a subordinate authority is required to be laid on the Table of Lok Sabha within a period of fifteen days after publication in the Gazette[10]. If Lok Sabha is not in session, it is to be laid on the Table within fifteen days of the commencement of the next Session. Parliament exercises control over subordinate legislation by asserting itself at any one or all of the following stages:[11]

(i) when the legislative measure in the form of a Bill delegating the powers is under consideration of the House, or

(ii) when the orders themselves are framed or made, it may specify that they shall be laid in draft or final form, or

(iii) after the orders are made, it may revoke or vary them; and

(iv) through the Committee on Subordiante Legislation which scrutinises and reports to the House whether the powers to make regulations, rules, sub-rules, bye-laws etc. conferred by the Constitution or delegation of subordinate legislative powers by Parliament are being properly exercised within such delegation. If the Committee is of opinion that any Order should be annulled wholly or in part, or should be amended in any respect, it shall report that opinion and the grounds thereof to the House.[12]

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[9] *Ibid,* pp. 201 & 202
[10] Rule 319; Kaul & Shakdher, p. 635
[11] *Ibid,* p. 634
[12] Rules 317 and 321

DELEGATED LEGISLATION: MEMORANDUM ON

An explanatory note or memorandum accompanying a statutory instrument or a bill containing proposals for the delegation of legislative powers. In U.K. delegated legislation is often very complex in its nature because of the involved nature of the matter with which it deals. It thus becomes necessary to explain its provisions at length and in detail which is done by adding brief explanatory notes to most statutory instruments. Every such note is prefaced by the warning that the note is not a part of the instrument.[1]

In Indian Parliament, all Bills involving proposals for the delegation of legislative powers are required to be accompanied by a memorandum explaining such proposals and drawing attention to their scope and stating also whether they are of normal or exceptional character.[2]

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[1] May, p. 575
[2] Rule 70

DEMANDS (FOR GRANTS)

A requirement or claim, a strong or authoritative request[1]; asking for what is due[2]; request made as of right[3]; any account upon which money or other thing is, or is claimed to be due[4]; asking of anything with authority[5]; demands for grants refer to the anticipated financial requirements of the public service for the forthcoming financial year[6].

In U.K., demands for grants are known as 'estimates' which are required to be annually laid before the House of Commons mentioning the specific grants of money which will be required during current year for the Civil Service, Defence Service and the House of Commons administration[7]. Estimates comprise five main groups: Navy, Army, Air Estimates, Civil Estimates & Defence Estimates[8]. Civil estimates consist of 11 classes. Each class is divided into 'votes'. Each vote represents a public department and is a unit of appropriation. Each vote is further divided into two parts. Part I specifies the service for which an estimate is required and Part II gives a break-down of the vote under explanatory sub-heads. Estimates are prepared by the various departments. All the estimates have to be passed by the Treasury and approved by Cabinet before they are presented to the House of Commons[9] which considers the estimates for three days (except Fridays) in each session[10].

After the presentation of estimates to the House, they are referred to the Committee of Supply which considers them and if it thinks fit approves them in the form of resolutions. These resolutions are referred to the House. When the House agrees to them, Consolidated Fund (Appropriation) Bill is brought in to authorise the payment of necessary sums out of consolidated funds to give legal sanction to the estimates[11].

In India, demands for grants are presented to Lok Sabha alongwith Budget Statement[12]; only such estimates which are not charged on the Consolidated Fund of India are submitted in the form of demands for grants to Lok Sabha which has power to assent or refuse to assent to any demand, or to assent to any demand subject to a reduction of the amount specified therein. Demand

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[1]Webster, p. 306
[2]Chamber, p. 354
[3]Oxford, p. 333
[4]Anderson, p. 338
[5]Wharton, p. 317
[6]Wilding & Laundy, p. 251
[7]May, p. 743
[8]Abraham & Hawtrey, p. 94
[9]Wilding & Laundy, pp. 251-252
[10]May, p. 754
[11]Abraham & Hawtrey, pp. 94-95
[12]Kaul & Shakdher, p. 707

for grant is made only on the recommendation of the President[13]; A separate demand is ordinarily made in respect of the grant proposed for each Ministry though grants of two or more Ministries may be included in one demand by Finance Minister[14]. Each Demand contains a statement of the total grant proposed followed by a statement of the detailed estimate under each grant which is divided into items[15]. Each demand first gives the totals of 'voted' and 'charged' expenditure as also the 'revenue' and 'capital' expenditure included in the demand separately and also the grand total of the amount of expenditure for which demand is presented. This is followed by the estimates of expenditure under different heads.

Demands for grants are not generally moved in Lok Sabha by the Minister concerned. They are assumed to have been moved and proposed from the Chair to save time of the House[16]. The scope of discussion on demands for grants is confined to a matter which is under the administrative control of a Ministry. Members are also free to discuss policy pursued by a particular Ministry or to suggest measures of economy in administration of that Ministry or to draw its attention to a specific local grievance[17]. While discussing demands for grants motions may be moved to reduce a demand for grants.[18] When several motions for reduction. (*i.e.,* cut motions) relating to the same demand are moved, they are discussed in the order in which the heads to which they relate appear in Budget[19].

All demands for grants in respect of a Ministry are discussed together with cut motions moved in respect of that demand. After discussion, cut motions are disposed of and then demands for grants in respect of a particular Ministry are put to vote of the House[20]. In India w.e.f. 8th April, 1993 a full fledged system of Department Related Standing Committees has been created to consider and examine the demands for grants of various ministries. 24 Department Related Joint Standing Committees have been constituted to cover all the Ministries.[21]

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[13]Art. 113 (2) & (3)
[14]Rule 206(1)
[15]Rule 206(2)
[16]Kaul & Shakdher, p. 709
[17]*Ibid,* p. 710
[18]Rule 208 (3)
[19]Rule 208 (5)
[20]Kaul & Shakdher, p. 710
[21]*Ibid,* p. 894

DEPARTMENTALLY RELATED SUBJECT COMMITTEES

The Committees appointed to examine the expenditure, administration and policy of principal Government departments and associated public bodies.[1]

In House of Commons the structure of Select Committees related to Government Departments was established for the first time in the 1979-83 Parliament.[2] There are as many as 17 such Committees in the House of Commons concerned with various Government departments. Most of these Committees consist of 11 Members with the exception of two Committees, Committee on Education and Employment and Committee on Environment, Transport and Regional Affairs having 17 Members each. The Committees on Foreign Affairs; Committee on Social Security Trade and Industry and Committee on Treasury having 12 Members each. The Committee on Northern Ireland Affairs consists of 13 members. [3] Sub committees can be appointed by some Committees like Education and Employment Committee, Environment, Transport and Regional Affairs Committee (2 each) and the Foreign Affairs Committee, the Home Affairs Committee and the Treasury Committee (1 each).[4]

All the Committees have the powers to appoint Specialist advisors.

Nomination and discharge of the Members of these Committees are the functions of the Committee on Selection and the Members are nominated for the remainder of the Parliament.[5]

In India, a full fledged system of Departmentally Related Committees was created, covering under their jurisdiction all the Ministries/departments of the Government with the setting up of 17 such Joint Standing Committees in April 1993.[6] The number of Departmentally Related Subject Committees has been raised to 24 in 14th Lok Sabha.

These Committees are specified in Part I and part II under rule 331C and 5th Schedule of Rules of Procedure and Conduct of Business.

Part I consists of 8 Committees; (1) Committee on Commerce, covering the Commerce and Textiles Ministries under its jurisdiction (2) Committee on Home Affairs (3) Committee on Human Resources Development (4) Committee on Industry (5) Committee on Science & Technology, Environment & Forests (6) Committee on Transport, Tourism & Culture (7) Committee on Health & Family Welfare (8) Committee on Personnel, Public Grievances, Law & Justice.[7]

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[1]May p. 673
[2]Ibid p. 673
[3]Ibid p. 674 & 675
[4]Standing order No. 152(3) of House of Commons
[5]May p. 676
[6]Kaul & Shakdhar p. 894
[7]5th Schedule, Rules of Procedure & Conduct of Business, Lok Sabha

The Committees specified in part 1 function under the directions of the Chairman, Rajya Sabha and the Chairman of each of these Committees is appointed by the Chairman, Rajya Sabha from amongst their Members.[8]

There are 16 departmentally related Joint Committees specified in Part II of 5th schedule of Rules of Procedure & Conduct of Business, Lok Sabha which work under the direction of the Speaker, Lok Sabha and the Chairman of each of these Committees is also appointed by the Speaker from amongst the Members of the Committee. The Committees in this part are:

(1) Committee on Agriculture (2) Committee on Information Technology (3) Committee on Defence (4) Committee on Energy (5) Committee on External Affairs (6) Committee on finance (7) Committee on Food, Consumer Affairs and Public Distribution (8) Committee on Labour (9) Committee on Petroleum and Natural Gas (10) Committee on Railways (11) Committee on Urban Development (12) Committee on Water Resources (13) Committee on Chemicals & Fertilizers (14) Committee on Rural Development (15) Committee on Coal & Steel (16) Committee on Social Justice & Empowerment.[9]

Each of these Committees consists of 31 Members, 21 from Lok Sabha nominated by the Speaker and 10 from Rajya Sabha nominated by the Chairman, Rajya Sabha.[10]

A minister can not be the member of the Committee. The Committees may associate specialists/technical experts/consultants and may seek public opinion.[11]

The Chairman can appoint study groups/sub Committees from amongst the members of the Committee.[12]

The main functions of these Committees are:

To consider the Demands for Grants of concerned Ministries/Departments and present the report to the Houses; to examine bills pertaining to the concerned Ministries/Departments referred to the Committee by the Chairman, Rajya Sabha or the Speaker, Lok Sabha; to consider annual reports of the concerned Ministries/Departments and to consider national basic long term policy documents presented to the Houses, if referred to the Committee by the Chairman, Rajya Sabha or the Speaker.[13]

The Standing Committees do not consider the matters of day to day administration of the Ministries and they also generally do not consider matters which are under the consideration of any other Parliamentary Committee.[14]

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[8]Kaul & Shakdher p. 895, 896
[9]5th Schedule, Rules of Procedure & Conduct of Business, Lok Sabha
[10]Rule 331 D(1)
[11]Rule 331 D(3)(4)
[12]Rule 331 (2)
[13]Hand Book, p. 152
[14]Rule 331 E(1)

These Committees do not suggest anything of the nature of cut motions in their reports on the Demands for Grants.[15]

Reports of these Committees have persuasive value and will be treated as considered advice given by the Committees.[16]

[15]Rule 331 E(2)
[16]Rule 331 E(1)(a)

DEPRIVATION

A depriving or being deprived: a loss; dismissal from office[1]; debarring from enjoyment;[2] refers to property taken under the power of eminent domain.[3]

The act of taking away by the State the life or personal liberty or property of the subjects, under a valid law.

Under the English 'Rule of Law', no member of the Executive can interfere with the liberty or property of a British subject except on the condition that he can support the legality of his action before a court of justice[4]. In U.S.A., a person can be deprived of his life, property or liberty only under the 'due process of law', and the Congress is not free to make any process 'due process of law' by its mere will. In U.K., the law means the law as declared by Parliament and the 'due process clause' does not apply[5].

In India, a person can be deprived of his life and liberty according to procedure established by law[6]; the Indian Constitution accepts the English principle of supremacy of the law in this regard[7]. In respect of property, no person can be deprived of it except by authority of law[8].

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[1]Webster, p. 310
[2]Oxford, p. 338
[3]Anderson, p. 347
[4]Eshugbaxi *Vs.* Govt of Nigeria, A. 1931 P.C. 238 (252) as reported in Basu (6th edn.), Vol. D. p. 81
[5]Basu (6th edn.), Vol. D, pp. 81-83
[6]Art. 21
[7]Basu (6th edn.), Vol. D, p. 101
[8]Art. 300A

DEPUTY CHAIRMAN

An Officer of the Indian Parliament who acts as Chairman in his absence from any sitting of the Council of States.[1]

In the British House of Lords a Deputy Chairman appointed by the House takes the place in the woolsack in the absence of the Speaker or the Deputy Speaker; in the House of Commons, the Deputy Chairmen are appointed by the House; they perform the functions of the Deputy Speaker and have all the powers of the Chairman of Ways and Means; they are called Deputy Chairmen of Ways and Means.[2] In the Indian Parliament, the Deputy Chairman is elected by the Council of States from amongst its Members[3]; the motion for the election is decided by simple majority vote; Can be removed from his office by a resolution of Rajya Sabha passed by the majority of the House[4]; acts as Chairman during his absence of when he is acting as the President[5]; presides over the sitting of the House and performs administrative functions of the Chairman during his absence[6]; exercises all the powers of the Chairman while acting on his behalf.[7]

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[1]Art. 91 (2)
[2]May, p. 196
[3]Art. 89 (2)
[4]Art. 90 (C)
[5]Art. 91
[6]Art. 91(1) & (2)
[7]Rule 9 (Rajya Sabha)

DEPUTY SPEAKER

The Officer of the House of a Legislature, who takes the Chair during the absence of the Speaker and performs his duties in relation to all proceedings in the House[1]; he performs all duties of the office of the Speaker while it is vacant.[2]

In the House of Commons, the Chairman of Ways and Means takes the Chair as Deputy Speaker in the unavoidable absence or absence by the leave of the House, of the Speaker[3]; he is also authorised, in the event of the Speaker's inability to act, to exercise his power of recalling the House during an adjournment. He has final authority over all points of order arising when he is in the Chair and there is no appeal from his ruling to the Speaker[4]; he also follows the tradition of abstention from party controversy as the Speaker during his occupation of the office of Chairman of Ways and Means.[5]

Under the new financial procedure, the Deputy Speaker presides when the House debates the business of supply and ways and means[6]. In the Lords, the Deputy Speaker is authorised by the Crown by Commission to take the place of Speaker in his absence[7].

In Australia, the title of Deputy Speaker was changed to Acting Speaker in 1965.[8]

In Lok Sabha the Deputy Speaker is elected from amongst its members; he is not subordinate to the Speaker and holds an independent position; he is answerable to the House alone[9]. In the absence of the Speaker, the Deputy Speaker is required to perform the duties of the Office of the Speaker and preside over the sitting of the House[10] and also the joint sitting of the Houses of Parliament and exercises the powers of the Speaker[11].

If the Deputy Speaker is a member of a Parliamentary Committee, he is appointed its Chairman[12] and he can also be nominated to different Parliamentary Committees[13].

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[1]May, p. 194
[2]Art. 95
[3]May, p. 195
[4]*Ibid,* p. 194
[5]*Ibid,* p. 194
[6]Wilding & Laundy, p. 204
[7]May, p. 184
[8]Wilding & Laundy, p. 204
[9]Kaul & Shakdher, pp. 125-126
[10]Art. 95 (1) & (2)
[11]Rule 5 of the Houses of Parliament (Joint Sitting and Communications) Rules
[12]Rule 258 (1) proviso
[13]Kaul & Shakdher, p. 126

The Deputy Speaker can speak and take part in the deliberations of the House and vote as a member on any question before the House; but while itself in the Chair he cannot vote except in the event of equality of votes[14].

The salary of the Deputy Speaker is charged upon the Consolidated Fund of India and is not subject to the vote of the House[15].

The Deputy Speaker shall vacate his office if he ceases to be a member of the Lok Sabha.[16]

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[14] *Ibid,* p. 126
[15] *Ibid,* p. 127 and Art. 112(3)
[16] Art. 94(a)

DIRECTIVE PRINCIPLES OF STATE POLICY

Constitutional directions and principles fundamental in the governance of the country[1], broadly classified under three categories—(i) economic ideals which State should strive to attain, (ii) directions to the legislatures and executive regarding their exercise of powers, and (iii) certain rights of the citizens which the State has to secure by its legislative and administrative policy[2]; it is the duty of the State to apply these principles while making laws[3]; directive principles lay down guidelines which can be implemented only by passing legislation[4]; not enforceable by any judicial process; similarly, a law cannot be declared invalid on the ground of non-conformity with directive principles; courts cannot compel the government to carry out these directives[5]; however, a law giving effect to any of the Directive principles shall not be void on the ground that it is inconsistent with or takes away or abridges any of the rights conferred by article 14 or article 19 of the Constitutions[6].

Some of the important directive principles require the State to strive to secure for its citizens equal justice and free legal aid[7]; right to work and education;[8] uniform civil code[9] early childhood care and education for all children until they complete the age of six years.[10] promotion of educational interests of Scheduled Castes, and weaker sections[11].

Under these Constitutional directions the State has to take steps for organising village Panchayats[12]; organisation of agriculture and animal husbandry[13]; protection and improvement of environment[14] and promotion of international peace and security[15].

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[1]Art. 37
[2]Basu, Vol. II, p. 303
[3]Art. 37
[4]Basu, Vol. 2, p. 307
[5]*Ibid*
[6]Art. 3(C)
[7]Art 39(A)
[8]Art. 41
[9]Art. 44
[10]Art 45
[11]Art. 46
[12]Art. 40
[13]Art. 48
[14]Art. 48A
[15]Art. 51

DISCRETION

Freedom or authority to make decision and choices, power to judge or act[1]; liberty of deciding as one thinks fit[2]; liberty to act at pleasure[3]; discernment of what is right or proper.[4]

In Parliament, the Speaker's powers have been laid down in rules and Constitution. However, the nature of rules which the Speaker has to administer is of elastic character; in several matters like expunction of any defamatory word or adjournment of the House etc. the Speaker has to exercise discretion within reasonable limits.[5]

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[1]Webster, p. 331
[2]Oxford, p. 358
[3]Chambers, p. 381
[4]Anderson, p. 362
[5]Kaul & Shakdher, pp. 113, 121, 124

DISCRIMINATION

Making or perceiving differences and distinctions, showing of difference or favouritism in treatment[1]; act of depriving an individual or a group of equality of opportunity[2]; difference in treatment of two or more persons or subjects[3].

In U.K., the Race Relations Act, 1968, prohibits the State from discriminating against its citizens on the ground of colour, race or ethnic or national origin. Inciting discrimination is an offence under this Act which is enforceable not only against the State but also against private persons in the matter of employment, housing accommodation, education etc. The enforcement of this Act rests with the Race Relations Board[4].

In India, the Constitution prohibits the State from discriminating against any citizen on grounds of religion, race, caste, sex, place of birth or any of them by putting restriction on their access and use certain public places[5]. The State is empowered to make special provisions for women, children socially and educationally backward classes, Scheduled Caste and Scheduled Tribe citizens in this regard.[6]

The Constitution also prohibits the State from discriminating against any citizen in respect of any employment under it on the grounds of religion, race, caste, sex etc.[7]

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[1]Webster, p. 331
[2]Dunner, p. 148
[3]Stroud, Vol. 1, 695-96
[4]Basu, Vol. B, pp. 279, 282
[5]Art. 15(1) & (2)
[6]Art 15 (3) & (4)
[7]Art. 16 (2)

DISCUSSION, HALF-AN-HOUR

Procedure in the Lok Sabha under which a discussion is raised on a matter of sufficient public importance which has been the subject of a recent question; the purpose is to seek elucidation on a matter of fact contained therein[1]; the duration of the discussion is half-an-hour and it is held in the last thirty minutes of the sittings on Monday, Wednesday and Friday.[2]

A member wishing to raise a half-an-hour discussion has to give notice thereof three days prior to the day on which he wants to raise it; the notice is accompanied by an explanatory note stating the reasons for raising the discussion.[3]

The Speaker decides the admissibility of discussion; a notice which seeks to revise the policy of the Govt. is not allowed.[4]

There is no formal motion nor voting. The member, whose notice has been admitted and included in the List of Business, makes a short statement and the Minister replies thereto. Thereafter members, not more than four in number, who have given previous intimation to the Speaker, are permitted to ask one question each[5]. With the Minister's reply to the questions put, the discussion ends.[6]

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[1]Rule 55(1)
[2]Kaul & Shakdher, p. 481
[3]Rule 55
[4]*Ibid.*
[5]*Ibid.*
[6]Kaul & Shakdher, p. 483

DISORDER (GRAVE)

Confusion, a lack of order, a breach of public peace[1]; tumult, commotion, riot[2]; disturbance[3]; conduct which disturbs the community[4]; in the Houses of Parliament utter disregard for the authority of the Chair or abuse of the rules of the House by persistent and wilful obstruction of business before the House by its members.[5]

In the House of Commons, a member flouting the authority of the Speaker or grossly violating rules of conduct and good order during a debate in the actual view of the Chair is directed by the Speaker to withdraw from the House. In the event of refusal by the Member to withdraw from the House, the Speaker directs Serjeant-at-Arms to remove him or names such a Member[6]. If there is grave disorder in the House, the Speaker is empowered to adjourn the House or suspend its sitting for such time as he thinks fit[7]; a Standing Committee has no power to punish its member for causing disorder; it can only report the matter to the House.[8]

In the House of Lords, the Speaker is not empowered with disciplinary powers to punish a member if he causes disorder. A member has a right to call another member to order or to move that a member be no longer heard.[9]

In India, the Speaker is empowered to take disciplinary action against a member causing grave disorder in the House. It is the responsibility of the Speaker to maintain order in the House and he exercises all powers for enforcing his decisions in such matters[10]. If a member causes serious disorder, the Speaker may direct him to withdraw immediately from the House. If the member persists in disregarding the authority of the Speaker, the member may be named by the Speaker and later suspended from the service of the House on a motion adopted by the House[11]. If there is grave disorder in the House, the Speaker may adjourn the House or suspend any sitting for such time as he may think fit[12].

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[1]Webster, p. 334
[2]Oxford, p. 361
[3]Chamber, p. 384
[4]Anderson, p. 364
[5]Kaul & Shakdher, pp. 307-08
[6]Wilding & Laundy, p. 206
[7]May, pp. 259-60
[8]*Ibid.* p. 703-04
[9]Wilding & Laundy, p. 206
[10]Rule 378
[11]Kaul & Shakdher, pp. 307-308
[12]Rule 375

DISSENT

Expression of difference of opinion; refusal to accept doctrines of established church[1]; disagreement of a judge from the majority opinion of his colleagues; dissidence; non-conformity.[2]

Dissent is an open disagreement with the majority opinion[3], also used in the context of expressing a different opinion from that of the majority in parliamentary Committee etc., often referred to as note/minute of dissent.

Honest dissent is considered to be a vibrant aspect of democratic life.

[1]Oxford (Illustrated), p. 242
[2]Webster, Lexicon, p. 336
[3]Random House Dictionary, p. 569

DISSIDENCE

Disagreement; dissent[1]; non-conformity[2]; disagreement as of opinion or belief[3]; it suggets not only a strong dissatisfaction but a determined opposition.[4]

The word 'dissidence' is often used in the context of activities of a dissatisfied group in a political party in opposition to the dominant group aimed at change in leadership etc. and is considered different from dissent which is a healthy feature of democratic polity.

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[1]Oxford, p. 364
[2]Webster, Lexicon, p. 336
[3]Reader's Digest Dictionary, p. 491
[4]Random House Dictionary, p. 570

DISSOLUTION

Termination[1], disintegration; undoing of bond, partnership, marriage or alliance; ending of a Parliament with a view to have fresh election[2]; the civil death of Parliament[3].

In U.K., the usual term of Parliament is 5 years and it is dissolved either by efflux of time or by a Queens proclamation[4]. Prior to 1911 the term was seven years; before the Triennial Act, 1694 there was no constitutional limit to the continuance of a Parliament, but the will of the Crown. Before the revolution of 1688, a Parliament was dissolved by the demise of the Crown; under the later laws it was dissolved six months after the demise of Crown; however, the Representation of People Act, 1867 provided that Parliament shall not be dissolved by such demise[5]; if the demise occurs between the dissolution of one Parliament and the constitution of the next, the members of the dissolved Parliament are to convene and sit at Westminster and be a Parliament again for a period not exceeding six months[6].

Parliament is usually dissolved when it is prorogued to a certain day[7]. The power to dissolve the Parliment is wielded by the Prime Minister although the monarch nominally gives the order[8].

In U.S.A., the House of Representatives cannot be dissolved before the Constitutional term of 2 years. In Australia, the Governor General can dissolve the House of Representatives before the expiry of its normal term of three years; the Senate can also be dissolved in the event of a deadlock between the two Houses as regards the passing of a bill. In Canada, the House of Commons can be dissolved sooner than its normal term of 5 years.

In India, the normal term of the House of the People known as Lok Sabha is five years and the expiration of the period of five years operates as dissolution; however, it can be dissolved sooner; while a Proclamation of Emergency is in operation, life of Lok Sabha can be extended by law for a period not exceeding one year at a time and not exceeding in any case beyond a period of six months after the Proclamation has ceased to operate. The Council of States (the Upper House of Parliament known as Rajya Sabha) is not subject to dissolution.[9]

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[1]Webster, p. 336
[2]Oxford, p. 364
[3]Wharton, p. 336
[4]May, pp. 58-59
[5]*Ibid.* p. 232
[6]Abraham & Hawtrey, p. 85
[7]*Ibid,* p. 272
[8]Dunner, p. 149
[9]Art. 83(1), (2)

The President of India dissolves the Lok Sabha on the advice of the Prime Minister. At the end of its term of five years, the House stands automatically dissolved even if no formal order of dissolution is issued by the President[10]. With dissolution, the life of the House comes to an end and it cannot again assemble until after a general election. Dissolution 'passes a sponge over the Parliamentary slate' and all business pending before it or any of its committees lapses on dissolution[11].

The term of a Legislative Assembly of a State too is 5 years unless dissolved earlier. The order of dissolution is issued by the Governor of the State. The Legislative Council of a State is not subject to dissolution[12].

A duly constituted Legislature is capable of dissolution before it is summoned to meet[13].

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[10]Kaul & Shakdher, p. 168
[11]Kaul & Shakdher, pp. 188, 191; Basu Vol. 2, 4th edn., p. 514
[12]Art. 172
[13]Kaul & Shakdher, p. 191

DIVISION

Disagreement, discord[1]; a difference of opinion, disagreement[2]; Separation, apportionment, partition.[3] In Legislatures, a mode of arriving at a decision on a proposed measure or question by recording votes for or against it.

Division is ordered by the Chair when his opinion on the question just decided by voice vote is challenged by members who demand a division.[4]

In the House of Commons, division takes place in the division lobbies; the tellers, named by the Speaker and positioned at the exit doors of each lobby, count the members, who pass the tellers. After the division is finished, the tellers return to the House and announce the numbers. A division usually takes between 7 and 12 minutes to complete. If the tellers cannot agree on the correct numbers, they must report the matter at the Table and the division is repeated.[5]

The Speaker has the power to disallow division and instead call upon the Members to successively stand up and thereupon declare that "the Ayes (or Noes) have it" in case he feels that the House is being forced to divide on a trivial issue.[6]

In India, on the conclusion of a debate, the Speaker (or the Chairman as the case may be) puts the question and invites those who are in favour of the motion to say 'Aye' and those against the motion to say 'No';[7] and then the Speaker says 'I think the 'Ayes' (or the 'Noes', as the case may be) have it.' If the opinion of the Speaker as to the decision goes unchallenged, he says twice "the 'Ayes,' (or 'Noes', as the case may be) have it" and the question before the House is determined accordingly.[8]

If the opinion of the Speaker is challenged by a Member or Members, the Speaker, excepting when he holds that the challenge is frivolous, directs that lobbies be cleared.[9] Then the Division Bell is rung. After lapse of three minutes and thirty seconds he puts the question a second time and declares whether in his opinion the 'Ayes' or the 'Noes' have it.[10] If the opinion so declared is again challenged, he directs that the votes be recorded either by operating

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[1]Oxford, p. 368
[2]Webster, p. 339
[3]Anderson, p. 370
[4]Kaul & Shakdher, p. 926
[5]Abraham & Hawtrey, p. 88
[6]*Ibid,* p. 88
[7]Rule 367 (1)
[8]Rule 367 (2)
[9]Rule 367 (3) (a)
[10]Rule 367 (3b)

the automatic vote recorder or by using 'Aye' and 'No' slips in the House or by the Members going into the lobbies.[11]

If the Speaker feels that the Division is unnecessarily claimed, he may ask the members to rise in their places and then have a count taken.[12]

In case of a Bill to amend the Constitution of India, voting is by division whenever a motion has to be carried by a majority of the total membership of the House and by a majority of not less than two thirds of the members present and voting.[13]

[11]Rule 367 (3c)
[12]Rule 367 (C) (proviso)
[13]Rule 158

DOCTRINE OF SEVERABILITY

A rule of interpretation; it means that where some particular provision of statute offends against a constitutional limitation, but that provision is severable from the rest of the statute, only that offending provision will be declared void by the court and not the entire statute[1]. The main tests to determine severability are (i) whether the part pronounced valid can stand along and be enforceable; (ii) whether the effect is to substitute for the law intended by the Legislature one they may never have been willing.[2]

The Constitution of India contains two specific provisions in regard to the doctrine of severability, namely, clauses (1) and (2) of Art. 13 and clause (i) of Art. 254, the former with regard to contravention of a Fundamental Right and the latter with regard to repugnancy of the State law in relation to a law of Parliament.[3]

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[1]R.M.D.C. Vs. Union of India, A.I.R., 1957, S.C. 628
[2]Basu (5th edn.) Vol. 1, p. 220
[3]Art. 13(1) (2) and Art. 254(1)

DUE PROCESS OF LAW

Law in conformity with 'due' process; a concept adopted by the American constitution; the process of law which hears before it condemns; judiciary can declare a law bad, if it is not in accordance with due process even though the legislation may be within the competence of the Legislature concerned[1]; the standard which determines the contents of 'due process' is the fundamental principle of liberty and justice, the essentials of a fair trial, the fundamental fairness etc.[2]

It has a procedural and substantive meaning; the requirements of procedural due process are public trial, a trial, not vitiated by pressure from any mob, impartial Judges, competence of the court which tries the offence, real notice of charge to the accused etc. The requirements of substantive due process of law, are that the law which deprives a person of his life and liberty should not conflict with the fundamental rights; should not be vague etc.; a mere animosity or public intolerance cannot justify the deprivation of life or liberty.[3]

In U.K., the concept of due process of law has not been adopted; the expression 'law of the land' is used which is different from due process of law; law means the law made by Parliament; no limit on the legislative competence of British Parliament.[4]

In India too the concept of due process of law has not been accepted; the Constitution of India adopted the expression; 'procedure established by law'; does not guarantee the right to any particular procedure to deprive a person of his life or liberty; the legislature is left free to lay down any procedure; this accepts the English principle of supremacy of law.[5]

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[1]Basu, (6th edn.) Vol. D; pp. 83, 85
[2]*Ibid,* p. 84
[3]*Ibid,* pp. 87-91
[4]*Ibid,* p. 81
[5]*Ibid,* p. 101

DUMMY

A sham or counterfeit article taking the place of a real one[1]; in British Parliament, a piece of paper representing a document presented to the House or laid upon its Table[2]; a dummy bill contains title of the bill and the names of the members supporting it; a member while introducing the bill hands the dummy to the Clerk[3]; Papers of Government departments and statutory instruments are also presented to the House in the form of dummies[4].

In Indian Parliament, a paper or document is laid on the Table of the House after it is duly authenticated by the member presenting it[5]; the practice of presenting dummy to the House does not exist as such.

[1]Chambers, p. 407
[2]Abraham & Hawtrey, p. 89
[3]Wilding & Laundy, p. 222
[4]Abraham & Hawtrey, p. 89
[5]Rule 369(1)

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ELECTION

Choosing for office by vote;[1] public choice of a person for office by the votes of a constituent body;[2] act of selecting one or more from a greater number for an office;[3] choosing, by vote of Members of the Legislatures.

In U.K., general elections to Parliament are held on completion of a term of five years or earlier, if dissolved by the Crown, for returning the representatives to the Lower House of Parliament. Writs for holding elections are issued after the Parliament is dissolved. Procedure of elections is governed by Representation of People's Act, 1949;[4] Nominations for elections are received upto eighth day after the proclamation. Poll is held on the ninth day of nomination period. Election is held by secret ballot;[5] in certain cases voting by post or by proxy is allowed.[6]

In India, general elections to Lok Sabha are held on expiration of its term or on its dissolution for constituting a new Lok Sabha;[7] after the issue of Presidential notification, Election Commission appoints dates for filing and withdrawal of nomination as well as date(s) of poll.[8] Returning officers examine nominations and declare the result of elections.[9]

Votes by proxy are allowed;

Special voters, service voters, voters on election duty and electors subject to preventive detention are allowed to vote by post.

There is special procedure for voting by certain classes of persons.[10]

Members of Rajya Sabha are elected by elected members of Legislative Assemblies of the States.[11]

Election to the post of Speaker, Deputy Speaker and Deputy Chairman is governed by rules framed by the respective House.[12]

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[1]Webster, p. 370
[2]Chambers, p. 423
[3]Wharton, p. 362
[4]Wilding & Laundy, p. 230
[5]Abraham & Hawtrey, pp. 90-91
[6]May, p. 29
[7]R.P. Act, 1951, Sec. 14
[8]R.P. Act, Sec. 30, 31
[9]R.P. Act, Sec. 66, 67
[10]P.D.T. Achary, p. 298
[11]Art. 80(4) & (5)
[12]Rules 7 & 8 (Lok Sabha) & Rule 7 (Rajya Sabha)

ELECTION COMMISSION

A constitutional body in India created for the purpose of holding elections to Parliament, State Legislatures and offices of President and Vice-President.[1]

In U.K., the Lord Chancellor is ordered by Royal Proclamation to issue writs for the holding of fresh elections throughout the country. These writs are addressed to the Returning Officer in each constituency, who is responsible for the conduct of election in that constituency.[2] Election Commissioners are not vested with the responsibility of conducting elections; they inquire into the report made by judges on the trial of an election petition and thereafter report to Parliament which takes appropriate action on the report; the Commissioners are appointed by the Crown on the joint address of Parliament to inquire into the report mentioned above.[3]

In Canada, the supervision of the Dominion elections is vested in the Chief Election Officer; he is an independent official chosen by a resolution of the House of Commons and removable in the same manner as a judge of the Supreme Court of Canada.[4]

In India, the Election Commission is vested with the responsibility of superintending, directing and controlling the preparation of electoral rolls and conducting all elections to Parliament, State Legislatures and to the offices of President and Vice-President. It consists of Chief Election Commissioner and such number of other Election Commissioners as the President may fix from time to time; their appointment is made by the President; he may appoint Regional Commissioners also to assist the Commission[5]. The Commission can be either single member or a multi-member body.[5A] The Chief Election Commissioner can be removed only in the like manner and on the like grounds as a judge of the Supreme Court; his conditions of service cannot be varied to his disadvantage after his appointment. An Election Commissioner or Regional Commissioner can be removed from office only on the recommendations of the Chief Election Commissioner.[6]

The Commission also advises the President/Governor on the question of disqualification of any member of Parliament or a member of a State Legislature. The President or the Governor, as the case may be, has to act according to the opinion of the Election Commission in this regard.[7]

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[1]Art. 324
[2]Wilding & Laundy, pp. 230-231 and Abraham & Hawtrey, p. 90
[3]Wharton, p. 363
[4]Basu, Vol. 5, p. 136
[5]Art. 324(1) & (2)
[5A]P.D.T. Achary, p. 116
[6]Art. 324(5)
[7]Art. 103(2), 192(2) and Basu, 5th edn., p. 137

The Election Commission has power also to disqualify any person on the ground that he has failed to lodge the account of election expenses;[8] it can disqualify a person for six years from voting on ground of conviction for certain offences;[9] it can also remove or reduce the disqualification in both cases.[10]

The Commission's functions are subject to the norms of fairness and it cannot act arbitrarily. The Election Commission has issued a model code of conduct which comes into force as soon as the elections are notified.[11]

[8]The Representation of the People Act, 1951 (Section 10A)
[9]*Ibid*, Section 11A
[10]*Ibid*, Sections 11 & 11B
[11]P.D.T. Achary, p. 117

ELECTION PETITION

A petition to challenge the result of an election;[1] a prayer made to the competent authority for challenging the result of an election.[2]

An election can be called in question by an election petition presented on one or more of the grounds specified in the election law,[3] by any candidate at such election or any elector, within forty five days from the date of election of the returned candidates;[4] the court which has the jurisdiction to try an election petition is the High Court.[5]

If the poll has been wrongly cancelled and fresh poll wrongly ordered the remedy lies in an election petition after the declaration of the result and in accordance with the law.[6]

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[1]Wilding & Laundy, p. 230
[2]Representation of the People Act, 1951, Sec. 81(2)
[3]Representation of the People Act, 1951, Sec. 100 & 101
[4]Kaul & Shakdher, p. 58
[5]Representation of the People Act, 1951, Sec. 80A(1)
[6]PDT Achary, p. 53

ELECTORAL COLLEGE

An intermediary body chosen by electors to choose the representatives in an indirect election.[1]

The President of the United States is elected by an electoral college the members of which are elected by the people.[2]

In India, Members of the Council of States are elected by an electoral college composed of elected members of the legislatures of the State forming the Union.[3]

The President of India is elected by an electoral college consisting of the elected members of both Houses of Parliament and the elected members of the Legislative Assemblies of the States.[4]

The Vice-President of India is elected by the members of an electoral college consisting of the members of both Houses of Parliament.[5]

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[1]Wilding & Laundy, p. 235
[2]*Ibid*
[3]*Ibid* and Art. 80
[4]Art. 54
[5]Art. 66

ELECTORAL ROLLS

The official list of people who have the right to vote in a particular area[1] Electoral Roll, known as 'voters' list in common parlance is the basic document on which the whole electoral process is founded.[2]

In U.K. it is known as electoral register. The Representation of People Act, 1983 provides for the preparation of Registers of Parliamentary electors once a year and all persons who claim to vote must be registered before election.[3] For being eligible to be included in electoral register, one has to be: (1) a resident in that Constituency (2) should not be subject to any legal incapacity (3) has to be either a Commonwealth citizen (as defined by the statute) or a citizen of the Republic of Ireland (4) has to be of 18 years of age or above on the date of poll.[4] British citizens who are the residents outside the United Kingdom can qualify as overseas electors at parliamentary election, in respect of the Constituency for which they were last registered, for a period of 20 years after they leave.[5] Peers other than Irish Peers, aliens, and persons under the age of 18 years, or of unsound mind, convicted persons during the period of their detention and persons found guilty of illegal practices at elections are incapable of voting.[6]

A registration officer is appointed in every district and London borough in England and in every country in Wales who is responsible for the preparation & publication of the electoral register for any Constituency or part of the constituency in that district or borough.[7]

In India, an electoral roll is prepared for every Assembly Constituency under the superintendence, direction and control of the election commission, by the Electoral Registration officer of each Constituency.[8] The electoral roll of every Parliamentary Constituency consists of the rolls of all Assembly Constituencies comprised within that Parliamentary Constituency. No separate roll is prepared for any Parliamentary Constituency except for those in the State of J&K and the Union Territories not having a legislature.[9]

Any person who is citizen of India and is not less than 18 years of age and is ordinarily resident in the constituency concerned is entitled to be registered in the electoral roll. A person is disqualified for the registration in the electoral roll if he is not a citizen of India or is of unsound mind or is

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[1]Oxford, p. 405
[2]Election Law Practice & Procedure—V.S. Rama Devi, p. 249
[3]May, pp. 28-29
[4]*Ibid,* p. 26
[5]*Ibid,* p. 26
[6]May, p. 27
[7]May, p. 29
[8]Law of Election, P.D.T. Achary, p.7
[9]*Ibid,* p. 7

disqualified under the law dealing with corrupt practices and other offences relating to elections.[10]

The electoral roll is revised before each general election as well as before each bye-election.[11]

[10] *Ibid,* p.7
[11] *Ibid,* p.9

EMERGENCY

A sudden or unforeseen situation that requires immediate attention[1]; an unexpected occurrence, pressing necessity[2]; a sudden juncture demanding immediate action[3]; an event or occurrence which happens unexpectedly from a known or unknown cause[4]; a situation in which the head of State assumes extraordinary powers for defending the State against external threats and for maintaining internal order.

In U.S.A., the President has no extraordinary powers to meet any emergency; Congress can, however, exercise its 'war powers' enumerated in the Constitution for effective prosecution of war; in case of any resistance to the authority of the federal Government by any State, Congress can, to maintain the indissoluble Union, call upon the militia to execute the laws of the Union and to suppress insurrection in the State.[5]

In England, an emergency in times of peace is declared by the Crown under the Emergency Powers Act, 1920; regulations by Order in Council are issued for distribution of necessities of life and for empowering the Police to preserve peace; required to be laid before Parliament forthwith and, if Parliament is not in session, must be summoned within five days; operate for seven days from date of laying; if approved by resolutions of both Houses of Parliament, operate for a month. In times of war, Parliament passes an Act under which the Executive makes regulations for public safety or the defence of the realm including power to detain without trial.[6]

In India President can issue Proclamations to meet three types of emergencies *viz.* (i) emergency arising out of war, external aggression or armed rebellion, (ii) failure of Constitutional machinery in a State, and (iii) threat to financial stability or credit of India or any part of it.

Proclamation of emergency arising out of war, external aggression or armed rebellion may be varied or revoked by subsequent Proclamation[7]; has to be laid before each House of Parliament[8]; operates for one month and, if approved by resolutions passed by each House of Parliament by a majority of the total membership and by a majority of not less than two-thirds of the members present and voting in each House, operates for six months from the date of passing of the second of the resolutions[9]; if and so often resolutions

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[1]Webster, 377
[2]Chamber, p. 429
[3]Oxford, p. 409
[4]Anderson, p. 12
[5]Basu, Vol. V, 5th Edn. pp. 167 & 168
[6]May, p. 235 and Basu Vol. V, 5th Edn., pp. 187-189
[7]Art. 352(2)
[8]Art. 352(4)
[9]Art. 352(4), Art. 352(5), Art. 352(6)

approving continuance in force of Proclamation are passed by Houses of Parliament by the said majority, continues in force for a further period of six months[10]; has to be revoked by President if House of People passes resolution disapproving it or its continuance in force[11]; during operation of Proclamation, President may suspend right of citizens to move court for enforcement of fundamental rights except rights to protection in respect of conviction for offences and protection of life and personal liberty[12]; while in operation, life of House of People may be extended beyond its normal period by law for a period not exceeding one year at a time and not beyond six months after expiration of the Proclamation.[13]

Proclamation issued on account of failure of Constitutional machinery in a State empowers President to assume to himself[14] all or any of the executive powers and all legislative powers of the State after dissolving the Legislative Assembly of the State or keeping it in suspended animation. Proclamation may be varied or revoked by subsequent Proclamation[15]; has to be laid before each House of Parliament[16]; operates for two months and if approved by both Houses of Parliament by resolutions adopted by simple majority operates for six months from the date of issue of Proclamation; operation may be further extended for six months at a time but in no case beyond three years[17]; can be extended beyond one year *only* when (i) Proclamation of emergency is in operation in whole or any part of India or in whole or any part of State concerned and (ii) Election Commission has certified the necessity of such extension on account of difficulties in holding elections to Legislative Assembly of the State.[18]

Proclamation[19] of Financial Emergency issued by President to meet any threat to financial stability or credit of India or any part thereof has to be laid before each House of Parliament; may be varied or revoked by subsequent Proclamation; operates for two months, and, if, before expiration of that period, resolutions approving it are passed by Houses of Parliament operates until revoked; empowers Union to reduce salaries and allowances of persons employed by Union and the Judges of Supreme Court and High Courts; extends authority of Union to issue directions to States to observe canons of financial propriety including reduction of salaries and allowances of persons employed by States.

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[10]Art. 352(5)
[11]Art. 352(7)
[12]Art. 359
[13]Art. 83(2)
[14]Art. 356(1)
[15]Art. 356(2)
[16]Art. 356(3)
[17]Art. 356(4)
[18]Art. 356(5)
[19]Art. 360

ENACTING FORMULA

The section of a Bill or statute which establishes the whole document as a law.[1]

It is a short formal paragraph immediately after the title and preamble (if any) of the Bill, which sets forth the authority of the body by which the Bill is to be passed.[2]

In U.K., the present form of Enacting Formula which was adopted in the 15th century is as follows:

'Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:'

In case of Consolidated Fund and Finance Bills, the usual formula is preceded by the following words which define the sole responsibility of the Commons for grant of money or duties:

"Most Gracious Sovereign, We, Your Majesty's most dutiful and loyal subject, the Commons of the United Kingdom in Parliament assembled *(in a Consolidated Fund Bill)* 'towards making good the supply which we have cheerfully granted to Your Majesty in this Session of Parliament, have resolved to grant unto Your Majesty the sum hereinafter mentioned' *(or in a Finance Bill)* 'towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue' have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned.[3]"

Unlike in British Parliament, in India there is only one form of enacting formula for all types of Bills, which is as follows:

"Be it enacted by Parliament in the .....(here the year of Republic e.g. 'Fortieth') year of the Republic of India as follows:—"

The present form was adopted in 1954.[4] It precedes the clauses of a Bill.

The enacting formula is taken up for passing only when all the clauses and schedules (including new clauses and new schedules) have been disposed of.[5]

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[1]Anderson, p. 24
[2]Abraham & Hawtrey, p. 92
[3]May, p. 462
[4]Kaul & Shakdher, P. 535
[5]Rule 92

ENTRENCHED CLAUSE

A section in the Constitution of some of the Commonwealth countries which can only be repealed or altered by special process and which deals with matters like the liberties of the subject, fundamental institutions of government etc. a number of the newer Commonwealth countries have included entrenched clauses in their constitutions. The process of amending entrenched clauses varies with each Constitution and may involve a popular referendum, a fixed parliamentary majority of two thirds or more, a system of delayed legislation or a combination of two or more such factors.[1]

In India, any part of the Constitution can be amended by each House of Parliament passing a Bill for that purpose by majority of the total membership of that House and by a majority of not less than two-thirds of the Members of that House present and voting.[2] However, any amendment of the Constitution necessitated by a legislation by Parliament to: (a) admit or establish a new state; (b) form a new state by separation of territories from any State or by uniting two or more States etc; and (c) abolish or create the Legislative Council of a State, is not deemed to be an amendment of the Constitution.[3]

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[1]Wilding & Laundy, p. 250
[2]Art. 368
[3]Art. 4 and 169

EQUAL PROTECTION

A constitutional right guaranteed to every citizen irrespective of his religion, race, caste, sex, place of birth; no citizen will be given discriminatory treatment by the State on the above grounds and free access to certain public utilities will be available to him[1]; every citizen also enjoys equality before law or equal protections of laws;[2] all individuals and classes will be equally subjected to the ordinary law of the land administered by the law courts.[3]

However, the State can make special provisions for certain categories like women, children, socially and educationally backward classes and scheduled caste and scheduled tribe citizens for their advancement[4] in pursuance of Directive Principle which imposes duty on the State to promote with special care the educational and economic interests of weaker sections of the country.[5] Provisions contained in clauses (3) & (4) of Art. 15 are exceptional in nature and are in keeping with the spirit of Articles 14 &15.

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[1]Art. 15 (1) &(2)
[2]Art. 14
[3]Basu, Vol. B, p. 7
[4]Art. 15 (3) &(4)
[5]Basu, Vol. B, p. 310 & Art. 46

EQUALITY

The state of being equal in political, economic and social rights[1]; uniformity and likeness of civil liberty[2]; fundamental right guaranteed by the Indian Constitution. Every citizen is guaranteed equality before law or equal protection of laws within the territory of India[3]; equality before law does not mean absolute equality of men; it only means equal subjection of all individuals to the ordinary law of the land[4]; Indian Constitution guarantees equality of opportunity to all citizens in the matter of employment or appointment to any office under the State; no citizen will be denied employment on the ground of religion, race, caste, sex, and place of birth etc. However, the State can make special provision for reservation of posts for backward class citizens.[5]

The State can also make any provision for reservation in matters of promotion with consequential seniority to any class or classes of posts for Scheduled Castes and Scheduled Tribes.[6]

[1]Webster, p. 391
[2]Anderson, p. 406
[3]Art. 14
[4]Basu, Vol. 2, p. 289
[5]Art. 16 (1), (2) & (4)
[6]Art. 16-4-A

ESCHEAT

Property that falls to the feudal lord or to the State for want of an heir or by forfeiture.[1]

Lapsing of property to crown or lord of manor on owner's dying intestate without heir.[2]

The reverting of property to the lord of the manor (in feudal law), to the Crown (in England), or to the Government (in the United States) when there are no legal heirs.[3] In feudal law, the determination of the tenure or dissolution of the bond between lord and tenant from extinction of the blood of the latter by natural or civil means (Leg.).[4]

In India, any property accruing by escheat, vests in the States or the Union.[5]

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[1]Chambers, p. 446
[2]Oxford, p. 412
[3]Webster, p. 395
[4]Anderson, p. 413
[5]Art. 296

ESTATE

Person's interest in landed property or movables; one's collective assets and liabilities[1]; landed property; possessions, Capital; fortune.[2]

Any species of property, real or personal[3]; the degree, nature, extent and quality of interest or ownership that one has in land[4].

In U.K., every subject has a right against unlawful deprivation of his property in his lands and goods; the private estate of a person can be taken by the State only by the consent of the owner or under the authority of Parliament.[5]

In India the State has the power to acquire any estate or any rights therein; however, if an estate is acquired by the State where any land comprised therein is under the personal cultivation of the owner, compensation has to be paid at a rate which shall not be less than the market value.[6] The estate includes, any *jagir, inam* or *muafi,* janman right, land held under ryotwari settlement, any land held or let for purposes of agriculture, waste land, forest land, land for pasture etc.; rights in an estate include any rights in a proprietor, sub-proprietor, under-proprietor, tenure-holder, or other intermediary.[7]

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[1]Oxford, p. 414
[2]Webster, p. 497
[3]Anderson, p. 414
[4]Webster, p. 497
[5]Basu (6th) Vol. D; p. 291
[6]Art. 31A.
[7]Art. 31 A (2)

ESTATE DUTY

Death duty[1]; a duty falling upon the property passing upon the death of the deceased.

In U.K., duty levied upon the principal value of all property real, personal, settled, unsettled which passes on the death of a person.[2]

In India, a duty which was levied on principal value of all property passing upon death in accordance with rules and laws passed by Parliament or State Legislature[3]; estate duty was abolished from March, 16th 1985.[4]

[1]Chambers, p. 448
[2]Wharton, p. 380-381
[3]Art. 366(9)
[4]Finance Minister's Budget Speech for 1988-89. (P. 27), Part B

ESTIMATES

Annual detailed statements of the public expenditure proposed to be undertaken by the Government.[1]

In U.K., the Crown's requests for supply are submitted to the House of Commons in the form of estimates[2]; contain the details of the anticipated expenses of each department and the specific purposes for which the money is required.[3]

In India, the estimates are presented to the Lok Sabha in the form of demands for grants; do not include charges upon the Consolidated Fund of India; Lok Sabha has power to assent or refuse to assent to any demand; a Committee named Estimates Committee is set up by the House to examine in detail the various aspects of estimates[4] (for details *see* 'Estimates Committee').

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[1]Abraham & Hawtrey, p. 94
[2]May, p. 743
[3]Wilding & Laundy, pp. 252-53
[4]Kaul & Shakdher, p. 828

ETIQUETTE (PARLIAMENTARY)

Conventional rules of personal behaviour in polite society[1] the forms, manners and ceremonies established by convention as acceptable or required in society, in a profession, or in official life; the rules for such forms, manners and ceremonies;[2] forms of ceremony or decorum; the conventional laws of courtesy observed between members of the same profession, players etc.[3] the rules which the members of a legislature are required to observe while the House is sitting.

In the House of Commons there are rules and conventions with regard to the conduct of Members in the House. Some of these are as follows:

(1) a Member must speak from his seat which must be 'within the House';

(2) a Member should speak only when there is a question before the House;

(3) a Member must not refer to another member by name;

(4) a Member must not speak offensive or insulting words against the character or proceedings of either House;

(5) a Member must not make personal allusions to Members of Parliament;

(6) a Member may enter or leave the House with decorum;

(7) a Member should not cross the House irregularly;

(8) a Member should not read books, newspapers or letters;

(9) Members should maintain silence;

(10) they should not hiss, clap or interrupt;

(11) they should abstain from obstructive behaviour;

(12) Members should make a bow towards the Chair while passing near it, etc.[4]

Some of the important rules of Parliamentary etiquette laid down and followed in the Indian Parliament are as under[5]:—

While the House is sitting, a Member—

(a) shall not read any book, newspaper or letter except in connection with the business of the House;

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[1]Oxford, p. 427
[2]Webster, p. 398
[3]Chambers, p. 450
[4]Campion, pp. 193-195
[5]Handbook, pp. 87-90

(b) shall not interrupt any member while speaking by disorderly manner;

(c) shall bow to the Chair while entering or leaving the House and also when taking or leaving his seat;

(d) shall not pass between the Chair and any member who is speaking;

(e) shall not leave the House when the Speaker is addressing the House;

(f) shall always address the Chair;

(g) shall keep to his usual seat while addressing the House;

(h) shall maintain silence when not speaking in the House;

(i) shall not obstruct proceedings, hiss or interrupt and shall avoid making running commentaries when speeches are being made in the House;

(j) shall not applaud when a stranger enters any of the galleries or the special box;

(k) shall not, while speaking, make any reference to the strangers in any of the galleries.

Apart from these rules, there are certain well-established conventions and observations by the Speaker regarding the rules to be observed by members while in the House. Some of them are as follows:

When the Speaker comes to take the Chair in the House, members should stop all conversations, go to their seats and rise in their places. Members who enter the House at that time should silently stand in the gangway till the Speaker takes the chair and should go to their seats thereafter. Members should not stand in the passage of the Chamber. Members should not sit with their backs to the Chair. Members should not wear badges in the House. Members should not smoke in the Chamber. Members should not talk amongst themselves in a loud voice which disturb the proceedings. Every member should resume his seat as soon as the Speaker rises to speak. When a member wants to speak, he should rise in his place and should speak only when he has been called upon by the Chair to speak. Members should not leave the House immediately after they finish their speeches.

EVIDENCE

Means of proving an unknown or disputed fact[1] information tending to establish fact[2]; proof, written or unwritten, of allegations in issue between parties[3]; something which ascertains the truth of the fact or point in question[4]; is of two types—oral and documentary; oral evidence refers to all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under enquiry; documentary evidence means all documents produced for the inspection of Courts.[5]

Categorised under two heads—primary and secondary; primary evidence means document itself produced for inspection of Court[6] secondary evidence means certified copies given under the provisions made in the Act.[7]

All facts may be proved by oral evidence[8] while the contents of documents may be proved by primary or secondary evidence.[9]

Evidence tendered before a Parliamentary Committee is treated as confidential until it is laid on the Table of the House.[10]

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[1]Chambers, p. 453
[2]Oxford, p. 430
[3]Wharton, p. 382
[4]Anderson, p. 419
[5]Indian Evidence Act, 1872
[6]*Ibid*, Sec. 62
[7]*Ibid*, Sec. 63
[8]*Ibid*, Sec. 59
[9]*Ibid*, Sec. 61
[10]Rule 275(3)

EXCEPTIONAL GRANT

Sanction of money by Parliament to cover expenses of an unusual character.

In U.K., such grants are presented either as Estimates or dealt with on a financial resolution. A grant to provide for rewards to individuals for distinguished public service, a special grant for presentation of a mace to a new Commonwealth legislature etc. are examples of exceptional grant.[1] In India, the Lok Sabha has the power to make an exceptional grant which does not form part of the current service of any financial year.[2] However, the House has not taken resort to this provision so far.[3] The exceptional grants are to be regulated by the same procedure as is applicable in the case of demands for grants subject to such adaptations as the Speaker, Lok Sabha, may deem to be necessary or expedient.[4]

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[1]Wilding & Laundy, pp. 259, 260
[2]Art. 116©
[3]Kaul & Shakdher, p. 721
[4]Rule 215

EXCESS GRANT

Authorisation given by Parliament to the money spent by departments in excess of the amount granted for a service in any particular year.[1]

Departments normally take great care to avoid exceeding the estimates sanctioned by Parliament for an excess expenditure suggests inefficiency etc. of the department.[2] However, sometimes it becomes unavoidable in the closing weeks of the financial year when it may not be possible to get a supplementary estimate voted due to the state of Parliamentary Business.[3]

In the House of Commons, this is known as Excess Votes. A Statement of excesses is presented to the House by the Treasury in the form of a report by the Comptroller and Auditor General after it has been examined by the Committee of Public Accounts. The Excess Vote is normally included in March Consolidated Fund Bill and receives final sanction in the next Appropriation Act.[4]

In India, the President causes to be laid in the Lok Sabha the demand for excess grant for its approval[5]; this demand is not presented by way of a supplementary grant, as expenditure incurred during the previous financial year cannot be regularised by supplementary demands for the current year[6]; it is required to be presented to the House in the session in which the Public Accounts Committee presents its report thereon or in the following session.

When the demand for excess grant is taken up in the House, no formal motion is moved by the Minister. It is deemed to have been moved. He may sometimes make a few observations explaining the reasons for the excess expenditure. During discussion on excess demands, it is open to members to say that money has been spent unnecessarily or it ought not to have been spent.[7]

Notices of motions in respect of excess grant which have been presented, but not moved in a session, lapse on the prorogation of the House.[8]

Cut Motions which are extraneous to the subject-matter of Excess Demand are out of order.[9]

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[1]Wilding & Laundy, p. 255; May, p. 751; Abraham & Hawtrey, p. 97; Art. 115 (b)
[2]Wilding & Laundy, p. 255
[3]May, p. 751
[4]*Ibid,* pp. 751-52
[5]Art. 115
[6]Kaul & Shakdher, p. 721
[7]*ibid,* p. 721
[8]*ibid,* p. 722
[9]*ibid,* p. 722

EXEMPTION

Freedom or release from a liability, obligation [1] freedom from any service, duty, burden immunity[2]; freedom from taxation, control, failings[3]; Privilege of being excepted, excused, freed from the operation of a law[4]; Privilege to be free from service or appearance.[5]

Under the Constitution of India exemption is available to the property of the Union from state taxation[6]; it is also available from taxes on electricity[7]; from taxation by state in respect of water or electricity in certain cases[8]; from property and income of a state from union taxation.[9] Exemption applies only to the extent the trade or business is incidental to the ordinary functions of the Government.[10]

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[1]Webster, p. 405
[2]Chambers, p. 457
[3]Oxford, p. 435
[4]Anderson, p. 1023
[5]Stroud, Vol. 1, p. 870
[6]Art. 285
[7]Art. 287
[8]Art. 288
[9]Art. 289
[10]Art. 289 (3)

EXISTING LAW

The laws in force at the passage of an Act.[1] Any law, ordinance, order, bye-law, rule or regulation passed or made before the commencement of the Constitution by any legislature, authority or person having power to make such a law, ordinance, order, bye-law, rule or regulation[2]; a notification issued under an existing statute, after the commencement of the Constitution, is not existing law, if it seeks to change the law. [3]

[1]Anderson, p. 434
[2]Art. 366 (10)
[3]Kalyan Stores *Vs.* State of Orissa, AIR, 1966, SC (1688)

EXPLANATION

A mutual defining of terms to clear up a misunderstanding or settle a dispute[1]; a mutual clearing up of matters[2]; explaining with a view to mutual understanding or reconciliation[3]; in Parliament a statement made by a Member explaining his conduct in regard to a particular question or occasion, replying to an accusation made by another member or correcting an alleged misrepresentation.[4]

In British Parliament, a Member is allowed to make personal explanation with the prior permission of the Speaker in respect of his conduct or alleged misrepresentation in debate. The member has to intimate the Speaker what he proposes to say by way of personal explanation. General arguments or debate is not permissible. Personal explanation is not allowed when the House is in Committee[5]; personal explanation is allowed on the premise that member makes it in good faith; abuse of this right by a Member constitutes grave contempt of Parliament[6]; it is made by the indulgence of the Hosue and not as a matter of right.[7] A member is permitted to make personal explanation before the commencement of public business.[8]

In the Indian Parliament, a member is allowed to make a personal explanation with the permission of the Speaker[9]; if criticism of personal nature is made against him on the floor of the House. A member has a right to make a personal explanation even if allegations made against him in the House are not made in his capacity as a Member. [10] If a member is present in the House and an allegation is made against him, he is permitted to make personal explanation at the end of the speech of the member who makes the allegation. If the member is not present in the House when the allegation is made, he has to provide to the Speaker, sufficiently in advance, the statement he wishes to make by way of personal explanation. He is allowed to make the statement as approved by the Speaker on the date and time fixed by the Speaker. The Minister or Member who allegedly made the allegation is informed accordingly.[11] Words, phrases and expressions not included in the statement approved by the Speaker, if spoken by the Member do not form part of the proceedings of the House.[12]

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[1]Webster, p. 408
[2]Chambers, p. 460
[3]Oxford, p. 440
[4]Wilding & Laundy, p. 560
[5]May, pp. 312-13
[6]Wilding & Laundy, p. 560
[7]Abraham & Hawtrey, p. 144
[8]Wilding & Laundy, p. 560
[9]Rule 357
[10]Kaul & Shakdher, pp. 411-12
[11]*ibid,* p. 413
[12]Direction 115 (c).

When a member makes a personal explanation, there is no question before the House, hence no debate is permissible nor any debatable matter can be raised.[13] Denial is normally accepted and the matter is treated as closed.[14]

If allegations against a member of Lok Sabha are made in Rajya Sabha, he is allowed to make personal explanation clarifying his position. If the conduct of a member becomes subject-matter of a report laid on the Table of the House, he is allowed to make a personal explanation.[15]

[13]Rule 357
[14]Kaul & Shakdher, p. 413
[15]*ibid,* p. 413

EXPULSION

Forcing out[1]; turning out a person from a community, school etc.[2]; turning out the legal proprietor of an estate in reality before the termination of the estate[3]; in parliamentary parlance, the unseating of members for offences committed against the House or for grave misdemeanours.[4]

In U.K., the House of Commons has the power to expel a member for (a) being in open rebellion, (b) being guilty of forgery, perjury, of frauds and breaches of trust, of misappropriation of public money, of conspiracy to defraud, of fraudulent conversion of property, of corruption in the administration of justice or in public offices or in the execution of their duties as members of the House, of conduct unbecoming the character of an officer and a gentlemen etc. [5]

The House of Lords too has the right, although obsolete, to disqualify a peer from sitting in the House by its sentence when the offender has been tried and found guilty on impeachment. Such disqualification may be permanent or temporary and is removable only by pardon from the Crown.[6]

The purpose of expulsion is essentially remedial; it is done to rid the House of a person who is unfit for membership. It does not create any disability to serve again in Parliament, if re-elected. [7]

The Houses of Indian Parliament have the power to expel a member if his conduct is derogatory to the dignity of the House and inconsistent with the standard which Parliament is entitled to expect from its members [8]; however as in U.K., expulsion does not create any disability to serve again, if re-elected to Parliament.

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[1]Webster, p. 410
[2]Oxford, p. 442
[3]Anderson, pp. 57, 437
[4]Wilding & Laundy, p. 263
[5]May, p. 141
[6]Wilding & Laundy, p. 263
[7]May, pp. 141-142
[8]Kaul & Shakdher, p. 262

EXPUNCTION (OF REMARKS)

An act of striking out, erasion, deletion or cancellation[1]; wiping out, effacement, marking for deletion[2]; erasion or omission of a name from list or passage from a book[3]; in Parliament deletion of defamatory, indecent, unparliamentary or undignified words, phrases or expressions from the proceedings of the House by an order of the Speaker.[4]

In the British Parliament if a member uses disorderly, offensive or unparliamentary words in a debate, immediate notice is taken of such words. If a Member desires that such words be noted, he has to repeat those words exactly as they were spoken. If the Speaker or Chairman is of the view that the words spoken were disorderly or after ascertaining the sense of the House directs the Clerk to take down such words, he asks the Memebr to withdraw them. If the member refuses to do so or does not offer apology, the Speaker repeats his call and if the member does not respond to it, Speaker takes action in pursuance of S.O. 43.[5]

In India, if the Speaker is of the opinion that a Member has used defamatory or indecent or unparliamentary or undignified expressions, exercising his discretion, Speaker orders that such words be expunged from the proceedings of the House.[6] When a member uses objectionable words, the Speaker asks the Member to withdraw them. If the Member refuses to withdraw the words, he orders expunction of such remarks. However, on many occasions, Speaker enlarged the scope of this rule and expunged words prejudicial to national interest.[7]

The Speaker has also expunged words considered to be —

(a) prejudicial to the maintenance of friendly relations with friendly foreign States;

(b) derogatory to high dignitaries including heads of friendly foreign States;

(c) likely to offend national sentiments or the religious susceptibilities of a section of the community;

(d) likely to discredit the Army;

(e) not in good taste or otherwise objectionable;

(f) likely to bring the House into ridicule or lower its dignity.

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[1]Webster, p. 410
[2]Chambers, p. 462
[3]Oxford, p. 427
[4]Handbook, pp. 71 & 72
[5]May, p. 394
[6]Rule 380
[7]Kaul & Shakdher, pp. 1004-1005

If the Chairman of a Parliamentary Committee is of the opinion that documents presented to the Committee contain words which are unparliamentary, irrelevant or not counched in respectful language, he may order such words to be expunged from such documents. However, the Speaker has power to review all decisions regarding expunction from such documents and his decision in the matter is final.[8]

The portion of the proceedings of the House expunged by the order of the Speaker is marked by asterisks and an explanatory footnote saying "Expunged as ordered by the Chair" is inserted in the proceedings of the House.[9]

[8] Direction 64 (i) & (ii)
[9] Rule 381

EXTRADITION

Turning over of an alleged criminal, fugitive or prisoner by one country to another[1]; delivering up of accused persons by one Government to another[2]; the surrender by a foreign State of a person accused of a crime to the state where it was committed.[3]

Extradition of offenders is done through a treaty existing between independent nations; it is regarded as a duty, independent of treaty by international law; the subject of the treaty is usually terminable at one year's notice.[4]

In India, Parliament alone has the right to make any law with regard to extradition.[5]

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[1]Webster, p. 412
[2]Chamber, p. 463
[3]Wharton, p. 398
[4] *ibid.*
[5]7th Schedule List I, item 18, Art. 246

F

FEES

The price paid for services[1]; Perquisites allowed to officers in the administration of justice, as a recompense for their labour and trouble ascertained either by Acts of Parliament, by rule or order of the Court or by ancient usage, in modern times frequently commuted for a salary.[2]

Fees are payments primarily in the public interest but for some special service rendered or some special work done for the benefit of those from whom payments are demanded; the fees charged must be commensurate with the services rendered. The payments collected by way of fees must be specially appropriated for that purpose and must not be merged in the general revenue of the State.[3]

Fees are imposed by the Union and State Legislatures for the specific services rendered. The authority to impose fees is decided according to the provisions of the Constitution.[4] Fees cannot be imposed for raising the general revenue. Imposition of a fee without rendering a service would be *ultra vires*.[5] The offence of acceptance of fees by the Members of Parliament or of offering of any fees or reward to a Member for professional services connected with the proceedings in the Parliament, *i.e.* in connection with the promotion or opposition to any Bill or resolution in the House is treated as a breach of privilege. Offering any fees or reward to any Member or Officer of the House for drafting, advising upon or revising any Bill, resolution etc. is treated as contempt of the House.[6]

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[1]Chambers, p. 478
[2]Wharton, p. 409
[3]Shri Jgannath V. State of Orissa. A.I.R. 1954, S.C. 400 at page 403.
[4]Entry 96 of List I, Entry 66 of List II, Entry 47 of List III, (7th Sch. of Constitution of India)
[5]Basu's Commentary, Vol. V. p. 431
[6]May p. 112 and Kaul & Shakdher, p. 286

FINANCE

The money resources, income, etc. of a nation, organisation or person[1]; pecuniary resources of sovereign, state, company or person[2]; the science of managing money matters.[3]

The executive is incharge of all the finance of the State. In U.K., the sovereign is charged with the management of all the revenue of the State; the Crown, on the advice of its Ministers, makes known to the Commons the pecuniary necessities of the Government; the Commons in return, grants the aids or supplies, thus, the initiation and administration of national finance is done by the executive and the control over it is exercised by the commons.[4]

In India the Govt. is in charge of the management of the finance and the Parliament controls it through various procedures such as voting the Demands for Grants, appropriation etc., as no money can be withdrawn from the consolidated fund of India except under appropriation made by law passed by Parliament.[5]

The resources of the Government consist of all revenues received by it, all loans raised by it and all moneys received by it in repayment of loans.[6]

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[1]Webster, p. 435
[2]Oxford, p. 474
[3]Webster, p. 543
[4]May, pp. 732-33
[5]Articles 113 & 114
[6]Art. 266

FINANCE BILL

A Bill to give legislative effect to financial proposals embodied in the annual budget.[1]

In U.K. Finance Bill is founded on resolutions of Ways and means passed after chancellor of Exchequer's opening statement of presentation of budget[2] its scope is not confined only to the imposition and alteration of texation but includes provisions of a permanent nature for regulation of fiscal machinery and other proposals[3] however, Finance Bill exceeds its' scope if it demands payment on account of imposition of tax after the close of a particular financial year; for bringing the Finance Bill within the meaning of Parliament Act, 1911 only taxation resolutions are embodied in Finance Bill while fiscal and administrative measures are included in Revenue Bill.[4]

Second reading of Finance Bill has a wider scope and entire fiscal policy of Government is reviewed at this stage[5]; it then passes through Committee stage during which it is referred to Committee of the whole House or to a Standing Committee in some cases. Amendments to the Bill are moved in Committee. Though the scope of the debate during the third reading of the Finance Bill is governed by normal rules, some latitude in the scope of the debate is permitted.[6]

In India, Finance Bill means the Bill ordinarily introduced each year to give effect to the financial proposals of the Government of India for the next following financial year and includes a Bill to give effect to supplementary financial proposals for any period.[7] The Bill is introduced by the Finance Minister immediately after presentation of the Budget.

On the last working day of February every year. More than one Finance Bill may be introduced, considered and passed during a financial year. A Finance Bill has to be preceded by the Demands for Grants and the connected Appropriation Bill and the sequence in regrad to Budget as provided in articles 112 to115 of the Constitution should be followed.[8] The Speaker shall forthwith put to vote the motion for Leave to introduce a Finance Bill or an Appropriation Bill.[9] During election year two finance bills are introduced; it is discussed only after demands for grants have been voted; discussion on its clauses and amendments has to be confined to taxation proposals and to possible

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[1]Abraham & Hawtery. p. 102
[2]May, pp. 788-89
[3]Wilding & laundy, p. 61
[4]May pp. 792-93
[5]Wilding & Laundy, p. 271
[6]May, p. 795
[7]Kaul & Shakdher, p. 726
[8]Kaul & Shakdher, p. 726
[9]Rule 72, Second Proviso.

alternatives[10]; the scope of its discussion has to be confined to general criticism of the financial policy of Government of India and matters relating to general administration or public policy contributing to deficit. Actions of State Government cannot be criticised while discussing Finance Bill. Similarly, detailed discussion on a particular estimate is not in order.[11]

[10]Kaul & Shakdher, p. 726
[11]*Ibid,* pp. 727-728

FINANCE COMMISSION

A Commission constituted by the President of India after every five years or at such earlier time as the President considers necessary consists of a Chairman and four other members. The duty of the Commisson is to make recommendations to the President as to (i) the distribution of the proceeds of taxes between the Union and States and allocation between the States of the respective shares of such proceeds, (ii) the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated fund of India, and (iii) any other matter which the President may refer to it in the interest of sound finance.[1]

Every recommendation made by the Finance Commission is laid on the Table of each House of Parliament together with an explanatory memorandum as to the action taken on the same.[2]

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[1]Art. 280
[2]Art. 281.

FINANCE MINISTER

The Minister in charge of the Finance portfolio.

In U.K., he is known as the Chancellor of the Exchequer; he is in control of the imposition of taxes and the expenditure of national revenue.[1]

In India, Finance Minister includes any Minister[2]; he presents the annual budget to the Lok Sabha[3]; he has a general right of reply at the end of the discussion on the budget.[4]

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[1]Wilding & Laundy, p. 90
[2]Rule 2(1).
[3]Rule 204(2).
[4]Rule 207(2).

FINANCIAL BUSINESS

Pertaining to finances[1]; may be defined as the business of the House which relates directly either to expenditure or taxation and is transacted under specially devised forms in Committees and the House.[2]

Financial business includes any business which the Speaker/Chairman holds as coming within this category under the Constitution[3]; the procedure in relation to financial business in the House is to be regulated by Law.[4]

[1]Chambers, p. 491
[2]May, p. 733
[3]Rule 221
[4]Art. 119

FINANCIAL MEMORANDUM

A memorandum required to accompany all bills involving expenditure.[1] In U.K., financial memorandum is required to be appended to bills; it briefly explains financial effects of the bill and contains estimates of the amount of money involved[2] every private bill or a bill seeking a grant from any government department must be accompanied by a printed financial memorandum describing the grant and its amount.[3]

In India, a bill involving expenditure is required to be accompanied by financial memorandum drawing attention to particular clauses involving expenditure; it should also given an estimate of recurring and non-recurring expenditure involved if the Bill is passed into a law[4]; if the financial Memorandum of a Bill is found to be incomplete, the Minister concerned is asked to furnish all the details and copies of revised financial memorandum are circulated to members separately[5]; if Financial memorandum does not indicate recurring and non-recurring expenditure involved, Government may be asked to furnish revised financial memorandum giving those details; if no financial memorandum is attached to a bill and later if the Speaker holds that it is necessary, the Minister may be permitted to read it in the House.[6]

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[1]Wilding & Laundy. p. 272
[2]May. p. 501
[3]*Ibid*. p. 894
[4]Rule 69(1)
[5]Kaul & Shakdher, p. 533
[6]*Ibid*. p. 434

FLOOR CROSSING

Changing one's allegiance from one party to another.[1]

The seating arrangements adopted in most of the Parliaments of the British Commonwealth, whereby the Party in power and the opposition sit facing each other, explains how this expression arose.[2]

In India, a member of Parliament is disqualified to be a member of Parliament if he crosses the floor by voluntarily giving up his membership of the Political Party to which he belongs[3]; or votes or abstains from voting contrary to direction issued by the Political party to which he belongs[4]; or an elected member not set up by any political party joins any political party after his election;[5] or a nominated member joins any political party after six months from taking his seat in the House.[6] No exemption from the disqualification of the Membership is allowed to a Member in case of split as was provided earlier.[7]

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[1]Chamber, p. 506
[2]Wilding and Laundy, p. 152
[3]Tenth Schedule Para 2(i)(a) of Constitution of India
[4]*Ibid.* Para 2(i)(b)
[5]*Ibid.* Para 2(2)
[6]*Ibid.* Para 2(3)
[7]Constitution (91st Amendment) Act, 2003

FLOOR OF THE HOUSE

That part of the legislative Chamber which is technically 'within the House', *i.e.* between the bar of the House and the Speaker's Chair. Debate may not take place outside these limits and a Member may only address the House from the Floor.[1]

[1]Wilding and Laundy, p. 276

FOREIGN STATE

Situated outside one's own country, province, locality etc.;[1] any State other than India;[2] subject to provisions of any law made by Parliament every country within the Commonwealth has been declared not to be a foreign State for the purpose of the Indian Constitution.[3]

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[1]Webster, p. 566
[2]Art. 367 (3)
[3]The Constitution (Declaration as to Foreign States) Order, 1950 (c.o.2) (State *V.* Abdul Rashid, AIR 1961, Pt. 112)

FREEDOM FROM ARREST

Liberty from apprehension by legal authority.

A member of Parliament in India, or of a Legislative Assembly or Council of a State or a Legislative Assembly of a Union Territory, is immune from arrest or detention under civil process during the continuance of any meeting of the respective House, Committee of the House, or Joint sitting, meeting or conference of the Houses and during the forty days before and after such meeting; however, he is liable to re-arrest or further detention after that period is over[1]; the privilege is limited to civil cases and does not extend to criminal cases or emergency legislation.[2] This privilege also does not extend to preventive detention or arrest[3] under Preventive Detention Act or under Defence of India Act.

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[1]Code of Civil Procedure, Section 135A (1) (2)
[2]Basu, Vol. 2, p. 587
[3]Kaul & Shakdher, pp. 249 & 285

FREEDOM OF ASSEMBLY

A fundamental right given to citizens under the Indian Constitution.[1]

Assembly must be peaceful and unarmed and should not undermine the security and integrity of India and public order. Reasonable restrictions can be imposed by the State on this right.[2]

[1]Art. 19
[2]Art. 19(3)

FREEDOM OF ASSOCIATION

A guaranteed fundamental right to citizens for any lawful purpose[1]; the right to form an association does not include any guaranteed right to strike[2]; nor does it include the right to obtain recognition by the Government[3].

The right is subject to 'reasonable restrictions' by the State, on the ground of the sovereignty and integrity of India or public order or morality.[4]

[1]Art. 19(1) (c)
[2]Kameshwar *Vs.* State of Bihar, AIR 1962, SC 166
[3]Raghubar *Vs.* Union of India, AIR 263, SC 263
[4]Art. 19(4)

FREEDOM OF MOVEMENT

The fundamental right to move freely throughout the territory of India without any discriminatory barriers[1]; it has three aspects: (i) the right to move from any part of the country to any other part; (ii) the right to move out of the country; (iii) the right to return to the country from abroad.[2]

State may impose restrictions either in the interest of the general public or to protect the interests of any Scheduled Tribe.[3]

A legislation dealing with preventive detention is not affected by this right as the direct object of such a legislation is not to take away the right to move freely throughout the country.[4]

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[1]Art. 19(1) (d) and Gopalan *Vs.* State of Madras (1950), S.C.R. 88
[2]Basu, Vol. I, p. 262
[3]Art. 19(5)
[4]Gopalan *Vs.* State of Madras (1950), S.C.R. 88

FREEDOM OF PRESS

A freedom included in the fundamental right to the freedom of speech and expression[1]; freedom of speech and of the press lie at the foundation of all democratic organisations.[2] In U.K., it is a part of the individual right of freedom of discussion;[3] in U.S.A., the first amendment to the Constitution provides 'the Congress shall make no laws...abridging the freedom of speech or the press.....'[4].

In India, it is regarded as a part of the fundamental right to freedom of speech and expression; the State is empowered to impose reasonable restrictions on this freedom.[5] (for details *see* under the entry "freedom of speech and expression").

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[1]Express Newspapers *Vs.* Union of India, AIR, 1958, Sc. 578
[2]Romesh Thaper *Vs.* State of Madras (1950) S.C.R. 594 (602)
[3]Basu (6th edn.) Vol. C, p. 92
[4]*ibid,* p. 90
[5]Art. 19(2)

FREEDOM OF PROFESSION, OCCUPATION OR BUSINESS

A fundamental right of the citizens of India.[1]

All citizens have the right to choose their own employment or to take up any trade or calling subject to the restrictions imposed by the State in the interest of public welfare such as, prescription of professional or technical qualifications necessary for practising any profession or occupation and carrying on any business or trade by the State or a State-owned corporation to the complete or partial exclusion of citizens.[2] The restriction should be 'reasonable' and the court has the competence to examine the reasonableness.[3]

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[1]Art. 19(1) (g)
[2]Art. 19(6) (i)(ii)
[3]Chintaman Rao *Vs.* State of Madhya Pradesh, AIR 1951, 118

FREEDOM OF PROPERTY

Formerly a fundamental right of the citizen of India which consisted of the right of ownership, possession, use and disposal of property;[1] freedom of property as a Fundamental Right was repealed in 1979.[2] (*w.e.f.* 20.6.1979).

[1]Art. 19(1) (f) (Repealed)
[2]The Constitution (Forty-fourth Amendment) Act, 1978

FREEDOM OF RELIGION

A fundamental constitutional right guaranteed to every person to freely profess, practise and propagate religion subject to certain reasonable restrictions which may be imposed by the State; [1] all persons are equally entitled to freedom of conscience;[2] every religious denomination or section has the right to maintain religious and charitable institutions and own and acquire property for such purpose. This right is also subject to the limitations of public order, morality and health;[3] public funds raised by taxes cannot be utilized for the benefit of any particular religion or religious denomination. However, there is no bar on use of such proceeds if the institutions have secular objectives.[4]

Under constitutional provisions, no educational institutions maintained by State funds can impart religious instruction;[5] however, this provision is not applicable to institutions administered by the State but established under endowment or trust; [6] a person attending any educational institution recognised and funded by the State is not required to receive religious instruction or attend religious worship unless the person or in case of a minor, his guardian has given consent for this purpose.[7]

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[1]Art. 25(1) & (2) and Basu, Vol. 'D', p. 202
[2]*Ibid*
[3]Art. 26 and Basu, Vol. 'D', page 239
[4]Art. 27 and Basu, Vol. 'D' page 248
[5]Art. 28(1)
[6]Art. 28(2)
[7]Art. 28(3)

FREEDOM OF RESIDENCE

A fundamental constitutional right guaranteed to all citizens of India enabling them to reside and settle in any part of the territory of India,[1] the object being to remove the internal barriers within India or between any of its parts.[2]

However, the State is empowered to make law imposing reasonable restrictions on the right of freedom of residence on the ground of general public interest, public health, public order or protection of the interest of any Scheduled Tribe.[3] A person whose citizenship has been terminated under an Act of Parliament cannot complain of the infringement of the freedom of residence.[4]

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[1]Art. 19(1)(e)
[2]Basu, Vol. C, p. 275
[3]Art. 19(5) and Basu, Vol. C, p. 276
[4]Abdul Rahim *V.* State of Bombay, AIR, 1960, SC 1315

FREEDOM OF SPEECH AND EXPRESSION

A fundamental constitutional right guaranteed to every citizen to express his convictions and opinions freely by word of mouth, writing, printing, picture or by any visible representation; includes the right to propagate or publish views of others, freedom to such information and ideas and freedom of discussion.[1]

However, the freedom of speech and expression granted under this right is not absolute[2] and the State can impose certain reasonable restrictions by a law[3] the restriction can be imposed on any one of the grounds *viz.*—(i) if sovereignty and integrity of India are endangered by secessionist activity;[4] (ii) if security of the State is compromised; (iii) if friendly relations with any State are affected; (iv) if public order is disturbed; (v) if decency or morality is affected; (vi) if it involves contempt of Court; (vii) if it leads to defamation of anyone; and (viii) if it acts as an incitement to any offence.[5] Reasonable restrictions can also be imposed by law in the interests of the general public or for the protection of the interests of any scheduled tribe etc.

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[1]Art. 19(1) (a) and Basu, Vol. c, pp. 95-96
[2]Basu, Vol. C. p. 100
[3]*Ibid.* p. 106
[4]*Ibid,* p. 110
[5]Art. 19(2)

FRONT BENCHES

Two benches nearest the Table occupied by Ministers and principal Members of Opposition in House of Commons and some Commonwealth Parliaments;[1] in the House of Commons, front bench on the right hand of the Chair, also known as the treasury bench, is occupied by the Ministers while front bench on the opposite side is reserved for leading members of Opposition. Some senior members also occupy this bench.[2]

In Indian Parliament too, front benches on the right side of the Chair are occupied by the Ministers while the front benches on the left side of the Chair are allotted to Deputy Speaker, Leader of the Opposition and prominent opposition members. The Prime Minister whether he is a member of the House or not is always allotted the first seat to the right of the Chair.[3]

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[1]Abraham & Hawtrey, p. 103
[2]May, p. 178
[3]Kaul & Shakdher, pp. 372-374

FUNDAMENTAL DUTIES

Fundamental duties are certain obligations on the part of a citizen which he or she owes towards the State so that the individual may not overlook his duties to the community while exercising his fundamental right or commit wanton destruction of public property or life.[1]

Fundamental duties are a part of the Constitution of many countries in the world like Japan, China, Russia and they are even part of Universal Declaration of Human Rights.[2]

Fundamental duties were not a part of the Constitution of India in the beginning. The part IVA which deals with these duties was inserted therein later by Constitution (42nd Amendment) Act, 1976.

Part IVA of the Constitution enjoins upon every citizen of India;

(1) to abide by the Constitution of India and respect its ideals and institutions, the National Flag and National Anthem.

(2) to cherish and follow the noble ideals which inspired our national struggle to freedom.

(3) to uphold and protect the sovereignty, unity and integrity of India.

(4) to defend the country and render national service.

(5) to promote harmony and spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women.

(6) to value and preserve the rich heritage of composite culture of India.

(7) to protect and improve the natural environment and wild life, and to have compassion for living creatures.

(8) to develop the scientific temper, humanism and the spirit of inquiry and reform;

(9) to safeguard the public property and abjure violence;

(10) to strive towards excellence in all spheres of individual and collective activity.

(11) parent or guardian, to provide opportunities for education to his child or ward between the age of six and fourteen years.[3]

Fundamental duties are addressed to the citizens and unlike fundamental rights are not enforceable by court of law and are without any legal sanction

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[1]D.D. Basu, shorter Constitution p. 465

[2]*Ibid*

[3]Art. 51A

for their violation. In this respect they are like Directive Principles which are addressed to the state and are not enforceable in a court of law. The citizen should be his own monitor while exercising his fundamental rights—remembering that he owes the duties to the State and if he does not care for the duties he should not deserve the rights. They are not enforceable by *mandamus* or any legal remedy.[4]

The scope is confined to "citizens".[5]

Since they are not addressed to the State, a citizen can not claim that he must be properly equipped by the State for performing his fundamental duties.[6]

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[4]Suryanarain V. Union of India, AIR 1982 Raj
[5]Art. 51 A
[6]Head Masters Association W.B.V. Union of India, AIR 1983 Cal.

FUNDAMENTAL RIGHTS

Rights protected and guaranteed by the written Constitution of a State.[1] In England, there is no code of fundamental rights as there is no written Constitution there; however, an individual has the right and freedom to take whatever action he likes, so long as he does not violate any rule of the ordinary law.[2]

In U.S., the Constitution provides for fundamental rights which cannot be amended in the ordinary course of legislation; concurrence of the State Legislatures too is required to amend them.[3]

Part III of the Indian Constitution deals with fundamental rights. These are paramount to ordinary State-made law[4] and any State Act which is repugnant to such rights is void.[5] The main rights guaranteed are: right to equality (Articles 14-18), right to basic freedom (Articles 19-22), right against exploitation (Articles 23-24); right to freedom of religion (Articles 25-28); and right to Constitutional Remedies (Article 32).

Some fundamental rights are limited to citizens (Articles 15, 16, 19, 29 and 30) and rest are applicable to citizens and aliens alike.[6]

There is no limitation on the constituent power of Parliament to amend the fundamental Rights.[7]

A new article-21A has been incorporated by Constitution (Eighty-Sixth Amendment) Act, 2002 providing for free and compulsory education to all children of the age of six to fourteen years in such a manner as the State may, by law, determine.[8]

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[1]Basu, Vol. I. p. 126
[2]Basu, Vol. I. p. 130
[3]*Ibid,* p. 133
[4]Gopalan V. State of Madras (1950), S.C.R. 76
[5]Mahendra V. State of U.P., A.I.R. 1963, S.C. 1019
[6]Gopalan V. State of Madras (1950), S.C. 174
[7]Art. 368(4) (5)
[8]Art. 21 A

G

GALLERIES

Platform projecting from inner wall of Church, hall etc. providing extra room for audience[1]; the galleries in a legislature Chamber.

In both Houses of British Parliament, strangers, Press and Government officials occupy seats in galleries; in the House of Commons, side galleries are reserved for Members; occasionally, a member is allowed to speak from the galleries,[2] in the Lords Peeresses, members of diplomatic corps and distinguished strangers are admitted in the galleries. There are separate galleries for Press and Government officials.[3]

In Lok Sabha, there are separate galleries for Speaker's relatives, friends and family members and for spouses, sons and daughters of members. In addition there are diplomatic gallery, Press Gallery, Public Gallery, Rajya Sabha Gallery for members of Rajya Sabha, distinguished visitors gallery and Govt. officials gallery. Admission to these galleries is regulated by issue of passes.[4]

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[1]Oxford, p. 527
[2]May, p. 177
[3]*Ibid,* p. 181
[4]Kaul & Shakdher, p. 951

GAZETTE

An official journal issued by authority twice a week with lists of Government appointments and bankrupts and other public notices;[1] any of various official publications, as of the Government or a university, containing announcements and bulletins;[2] the official publication of the English Government;[3] the official newspaper of the Government.[4]

In England, it was first published at Oxford in 1665;[5] also called London Gazette. It is evidence of acts of State, and of all political acts performed by the Queen; orders of adjudication in bankruptcy are also published in it;[6] published on Tuesdays and Fridays; contains all acts of State, proclamations and appointments to offices under the Crown; also all orders in Council and such other orders, Rules and Regulations as are directed by Act of Parliament to be published therein and dissolutions of partnerships and notices of proceedings in bankruptcy.[7]

In India it is known as the Gazette of India or the official gazette of a State;[8] an official publication of the Government; Acts of Parliaments, Rules, notifications issued by the Government, appointments to certain offices, posts, official announcements etc. are published in the gazette.

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[1]Oxford, p. 532
[2]Webster, p. 792
[3]Anderson, p. 486
[4]Wharton, p. 448
[5]*Ibid*
[6]Anderson, p. 486
[7]Wharton. p. 448
[8]General Clauses Act, s. 3(39)

GENERAL CLAUSES ACT

An Act of 1897 which applies for the interpretation of the Constitution of India and Central and State Acts.[1]

State will include a Union Territory also.[2]

[1]Art. 367(1)
[2]General Clauses Act 5.3 (58)

GERRYMANDER

To rearrange (voting districts) in the interest of a particular party or candidate;[1] to divide (a voting area) in such a way as to give an unfair advantage to one political party;[2] manipulate (Constituency etc.) unfairly so as to secure disproportionate influence at election for some party or class;[3] to divide a country into electoral districts in such a way as to give a political advantage to the party in power; the word perpetuates the memory of Governor Gerry of Massachusetts who resorted to this stratagem in 1812.[4]

[1]Chambers, p. 561
[2]Webster, p. 801
[3]Oxford, p. 537
[4]Wilding & Laundy, p. 323

GOVERNMENT

Established system of political administration by which State is governed;[1] body of persons governing a state;[2] a body of people, usually elected, with the power to control the affairs of a country or state;[3] established system of political rule consisting of the executive and the legislature;[4] the State administration.[5]

A Parliamentary Government consists of cabinet which is responsible to the legislature for its actions. Government carries on general administration and Parliament exercises general control of governmental acts.[6]

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[1]Webster, p. 826
[2]Oxford, p. 557
[3]Chambers, p. 580
[4]Stroud, Vol. 2 , p. 1096
[5]Anderson, pp. 490-491
[6]Wilding & Laundy, p. 537

GOVERNMENT ASSURANCES

Assurances, promises, undertakings given by Ministers from time to time on the Floor of the House; for ensuring their implementation in reasonable time, Committee on Government Assurances was set up in Lok Sabha which scrutinizes the assurances and examines whether they were implemented within reasonable time and presents its report to the House;[1] Rajya Sabha has a separate Committee which scrutinizes the assurances given by Ministers on the Floor of the House.[2] (For further details, *see* under Committee on Government Assurances).

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[1]Kaul & Shakdher, p. 860 and Rule 323
[2]Rule 212A (Rajya Sabha)

GOVERNMENT BUSINESS

The items of business initiated by the Government in a Legislature.

In the House of Commons, apart from the provision made for Private Members' and opposition business, the rest of the time of the Session is allotted to Government business;[1] the Government business is marked with a star in the Notice Paper to distinguish it from Private Members' Business; the items of Government business for a whole week are announced on every Thursday in the form of a statement by the Leader of the House in reply to a question by the Leader of the Opposition. This order of business is seldom varied without a supplementary statement.[2] The main items of Government business are: (1) Address to the Queen (2) Government Motions (3) Adjournment motions moved by Ministers of the Crown (4) Consideration of Estimates (5) Consolidated fund Bills (6) Government Bills and Orders etc. There are also opposition motions taken up in Government time such as Censure motion, motions critical of the conduct of the Chair, motion to discuss a report from a select committee etc.[3]

In the Indian Parliament, Government Business means items of business initiated by the Government; these are divisible into a number of forms; such as (i) Papers laid on the Table by Ministers, (ii) statements and personal explanations made by Ministers, (iii) statements by Ministers on matters of urgent public importance, (iv) Motions for introduction and withdrawal of Government Bills, (v) Financial business (vi) Legislative business initiated by Ministers (vii) Motions and Resolutions moved by Ministers.[4] On days allotted for the transaction of Government business, such business has precedence and the Secretary-General arranges that business in such order as the Speaker after consultation with the Leader of the House, determines. This order of business is not varied on the day that business is set down for disposal unless the Speaker is satisfied that there is sufficient ground for such variation.[5]

The items of business initiated by Private Members but taken up in Government's time are: Motion of no-confidence in the Council of Ministers, Censure Motion, Questions and Short Notice Questions, Adjournment Motions, Calling Attention Notices, Questions of Privilege, Motion of Thanks, Resolutions for the Removal of Speaker or Deputy Speaker, Statutory Resolutions, Half-an-Hour Discussions etc.[6]

Government business for the next week is announced by the Minister for Parliamentary Affairs on the last day of the sitting every week.

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[1]May, p. 269
[2]*Ibid,* p. 270
[3]*Ibid,* pp. 269-278
[4]Kaul & Shakdher, pp. 407-417
[5]Rule 25
[6]Kaul & Shakdher, p. 417

GOVERNOR

The official appointed to govern, province, town, etc.;[1] a real or titular ruler, especially of a state, province, colony.[2] The Chief executive officer in each of the fifty states of the U.S.;[3] the chief executive of a state in the Indian Union.[4] The Governor of an Indian State is appointed by the President; holds office during the pleasure of the President; the normal term is five years;[5] in some cases, some person may be the Governor of more than one State.[6] Executive power including all acts necessary for carrying on or supervision of the general administration of the State vests in the Governor;[7] has the right to address and send messages to the legislature;[8] summons, prorogues and dissolves Legislative Assembly;[9] reserves a Bill for President's consideration;[10] reports to the President on the failure of Constitutional machinery in the State;[11] promulgates ordinances during recess of legislature;[12] appoints the Chief Minister and other members of the Council of Ministers on his advice;[13] has power to grant pardon and to suspend, remit or commute sentence in certain cases.[14]

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[1]Oxford, p. 557
[2]Chambers p. 580
[3]Dunner, p. 218
[4]Art. 154
[5]Arts. 155 & 156(1) (3)
[6]Art. 153
[7]Art. 154 (1); Ram Jawaya V. State of Punjab, A.I.R. 1956, S.C. 549
[8]Arts. 175, 176
[9]Art. 174
[10]*Ibid,* Art, 200
[11]Art. 356
[12]Art. 213
[13]Art. 164
[14]Art. 161

GUARANTEE

Person making guarantee or giving security; thing given or existing as security for fulfilment of conditions or permanence etc. of something;[1] a collateral engagement to answer for the debt, default, or miscarriage of another person; a promise to another as debtor to secure the payment of a debt payable to him.[2]

In India guarantee includes any obligation undertaken before the commencement of the constitution to make payments in the event of the profits of an undertaking falling short of a specified amount.[3]

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[1]Oxford, p. 570
[2]Stroud, Vol. 2, p. 1111
[3]Art. 366(13)

GUILLOTINE

Machine with knife-blade sliding in grooves for beheading;[1] an instrument for beheading;[2] an instrument for beheading by descent of a heavy oblique blade adopted during the French Revolution, and named after Joseph Ignace Guillotine.[3]

Method of preventing obstruction by fixing times at which parts of Bill must be voted on;[4] a specially drastic rule or closure motion for shortening discussion;[5] the most drastic method of curtailing debate in a legislature.[6]

In the House of Commons, guillotine can be applied only after passing a motion for the purpose in the House. It is applied to the various stages of Bills and is designed to expedite their passage by means of a time-table allotting a certain number of days to the different stages of the bill and at the end of the allotted time the question under consideration is put without any further debate.[7] Guillotine is also applied to the consideration of the estimates. The Speaker is required at ten o' clock to put the question that the total amount outstanding in respect of each financial year be granted.[8] First Guillotine is applied on 6th February to the Vote on Account and Winter Supplementary Estimates. Second Guillotine is applied on 18th March to votes relating to defence services, Spring Supplementary Estimates and Excess votes. The Third Guillotine is applied on 5th August to the main estimates.[9]

Guillotine, which is a colloquial term, is technically known as "allocation of time orders".[10]

It is an unpopular method and is regarded as the extreme limit to which procedure goes in affirming the rights of the majority at the expense of the minorities of the House. It is capable of being used to upset the balance between the claims of business and the rights of debate.[11]

In the Indian Parliament the guillotine is applied to the demands for grants. The Speaker, in consultation with the Leader of the House, allots days for the discussion and voting of the demands. On the last day of the allotted days, at 17.00 hrs. or at such other hour as the Speaker may fix in advance,

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[1]Oxford, p. 572
[2]Webster, p. 849
[3]Chambers, p. 596
[4]Oxford, p. 548
[5]Chambers, p. 596
[6]May, p. 410
[7]Wilding & Laundy, p. 335
[8]May, p. 757
[9]*Ibid,* pp. 775 S.O. No. 55
[10]Abraham & Hawtrey, p. 103
[11]May, pp. 410, 455 and Wilding & Laundy, p. 336

every question necessary to dispose of all the outstanding matters in connection with the demands for grants are put forthwith.[12]

If on the last day the last group of demands for which time has been allotted is disposed of earlier than the fixed hour, the outstanding demands are guillotined only at the fixed hour and the intervening period is devoted to some other items included in the List of Business for that day.[13]

[12]Kaul & Shakdher, pp. 711-712
[13]Kaul & Shakdher, p. 713

H

HABEAS CORPUS

That you have the body;[1] A writ or order requiring that a prisoner be brought before a court at a stated time and place to decide the legality of his detention or imprisonment;[2] commands the judge of the inferior court to produce the body of the defendant with a statement of the cause of his detention, to do and to receive whatever the higher court shall decree;[3] the right of habeas corpus safeguards one against illegal detention or imprisonment.[4]

A high prerogative writ of English Common Law; Habeas Corpus Acts of 1679 and 1816 are basis of security for the enjoyment of personal freedom.[5]

In India, every High Court is empowered to issue the prerogative writ of habeas corpus for enforcement of Fundamental Rights and for any other purpose.[6] The Supreme Court can issue it only for the enforcement of the Fundamental Rights.[7]

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[1]Anderson, p. 500
[2]Webster, p. 856
[3]Anderson, p. 500
[4]Webster, p. 856
[5]Dicey, p. 216
[6]Art. 226
[7]Art. 32(2)

HINDU RELIGIOUS INSTITUTIONS

Institutions relating to the Hindu religion; places of worship of Hindus.

The Constitution of India guarantees freedom to profess, practise and propagate religion; however, the Hindu religious institutions of a public character are open to all classes and sections of Hindus; Hindus include Sikhs, Jains and Buddhists;[1] the Hindu institutions of public character do not include private or family temples; but do not exclude denominational temples or temples founded for the benefit of particular sections of the Hindus.[2]

[1]Art. 25(1) & (2)(b)
[2]Basu (6th edn.) Vol. D, p. 230

HOUSES OF PARLIAMENT

The two Chambers of a bicameral Parliament, namely, the Upper House and the Lower House.

The two Houses of British Parliament are (1) the House of Lords and (2) the House of Commons; each House has distinctive duties.[1]

The two Houses of Indian Parliament are: the Rajya Sabha (Council of States) and the Lok Sabha (House of the People).

(For details *see* under 'Parliament')

[1]Anderson, p. 747

HUNG PARLIAMENT

Parliament wherein no Party has won a working majority.[1]

The result of a hung Parliament is either a minority government or a coalition which can command a majority in the House.[2]

In Britain, hung Parliament occurred as a result of the General Elections held in 1923, 1929 and February, 1974.[3] Minority Governments rather than coalitions have been the norm there in such situations.[4]

In India, the 1989 general elections resulted in a hung Parliament for the first time in the history of India in which no single political party secured an overall majority of seats in the House; a minority government was formed with certain political parties supporting it from outside. Since then, almost every general election has been resulting in a hung Parliament.

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[1]Reader's Digest dictionary, p. 823
[2]Vernon Bogdanor (MP), p. 138
[3]*Ibid,* p. 10
[4]*Ibid,* p. 138

HYBRID BILL

Hybrid Bills are public bills which may in certain respects affect private interest.[1] In U.K. such bills are subject to a special procedure during their passage through Parliament. Standing orders relating to private business are applicable to Hybrid Bills.[2]

[1]May, p. 554
[2]Wilding & Laundy, p. 374

I

IMPEACHMENT

Accusation and prosecution for treason[1]; bringing a public official before a proper tribunal on a charge of wrong-doing;[2] accusation and prosecution of a person for treason or other crimes or misdemeanour before a competent tribunal[3]; prosecution of a peer of commoner for treason or other high crimes and misdemeanour[4]; prosecution of the Head of State by Parliament for violation of the Constitution.[5]

In U.K., by the Law of Parliament, all persons, whether peers or commoners can be impeached for any crimes; but it is generally resorted to in respect of extraordinary crimes and extraordinary offences.[6] Ministers of the Crown in particular were the targets of impeachment, but the growth of the doctrine of collective cabinet responsibility and of resignation of the cabinet following a successful vote of censure against a Minister has resulted in the disuse of impeachment in modern times.[7]

Accusation of treason or other crimes is brought before the House of Lords by the Commons; prosecution is initiated by the Commons and is conducted by managers appointed out of their own body; the trial takes place in the Lords which adjudicates upon the charge preferred.[8] A person found guilty may be removed from his office.[9]

Commons resorts to impeachment for high crimes and misdemeanour beyond the reach of law or which no other authority in the State will prosecute; regarded as the ultimate safeguard of public liberty. But it has not been employed since the 19th century. As in the case of the Lords, the Commons, constitutional role in passing Acts of attainder and of pains and penalties, and in prosecuting offences before the Lords in impeachments, is now of historical rather than current interest. But these powers have never been formally abolished.[10]

In India, impeachment is directed against the President and he can be removed from office under this procedure for violating the Constitution[11]; such

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[1]Oxford, p. 711
[2]Webster, p. 959
[3]Shorter Oxford, p. 606
[4]Wharton, p. 493
[5]Art. 61
[6]May, p. 63
[7]*Ibid.* p. 63
[8]Abraham & Hawtrey, p. 107 and May, p. 68
[9]Dunner, p. 252
[10]May, p. 63
[11]Art. 56(1) (b)

a charge may be preferred by either House of Parliament[12] by means of a resolution which has to be moved after atleast fourteen days' notice in writing signed by not less than one-fourth of the total number of members of the House.[13] The resolution has to be passed by a majority of not less than two-thirds of the total membership of the House.[14] When the charge has been preferred by either House of Parliament, the other House has to investigate the charge or cause it to be investigated. The President enjoys the right to appear and to be represented at such investigation.[15] If as a result of the investigation a resolution is passed by a majority of not less than two-thirds of the total membership of the House by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained, such resolution has the effect of removing the President from his office from the date on which the resolution is passed.[16]

[12]Art. 61 (1)
[13]Art. 61 (2) (a)
[14]Art. 61 (2) (b)
[15]Art. 61 (3)
[16]Art. 61 (4)

IMPOST

Tax, duty;[1] a tax, especially, a duty on imported goods and merchandise.[2] In the wider sense; any tax or imposition; includes every kind of tax or contribution not covered under the ordinary terms "taxes and excise".[3]

[1]Oxford, p. 713 (Concise Oxford Eng. Dict.)
[2]Webster, p. 962 (Random House Webster Unabridged Dictionary)
[3]Anderson, p. 527

INDEPENDENT MEMBER

Person who acts (in politics etc.) independently of any party;[1] a person not an adherent of any political party;[2] a member of Parliament who acknowledges no allegiance to any political party; in U.K. 'independent' at one time meant independent of the King; during the 18th Century, meant independent of the Government able to vote as he please and is only governed by his conscience as to the regularity of his attendance in the House.[3]

In India, a member elected as such to a Legislative House otherwise than as a candidate set up by any political party;[4] an independent member is disqualified for being a member if he joins any political party after his election.[5]

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[1]Oxford, p. 659
[2]Webster, p. 970
[3]Wilding & Laundy, p. 377
[4]Constitution of India, 10th Schedule, para 2(2)
[5]*Ibid.*

INDIA

Bharat; a Union of States;[1] the territory of India comprises the territories of the States and that of Union Territories which are specified in Schedule 1 of the Constitution and any other territories which may be acquired.[2]

INDIAN STATE

Any territory which the Government of the Dominion of India recognised as such a State.[3]

[1]Art. 1
[2]Art. 1(3) (a)(b)(c)
[3]Article 366 (15)

INTERESTS OF THE GENERAL PUBLIC

Those interests which concern the public at large;[1] a matter in which a class of the community have a pecuniary or some other interest by which their legal rights or liabilities are affected.[2]

The words 'general public' refer to the rest of the citizens, with reference to a free citizen who claims the right in question. The words do not refer to any group or class of people as distinguished from the people generally.[3]

The Indian Constitution provides for limitations on fundamental rights of (1) freedom of movement, (2) freedom of residence and settlement, (3) freedom of profession, occupation, trade or business, these can *inter alia* be imposed in the interest of general public.

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[1]Stroud, p. 2367, Vol.2
[2]*Ibid,* p. 2119
[3]Basu: Shorter Constitution, p. 188

INTER-PARLIAMENTARY RELATIONS

Relations established among the different Parliaments in the world through exchange of goodwill missions, delegations etc. with a view to promoting international understanding, peace and cooperation. The Inter-Parliamentary Union and Commonwealth Parliamentary Association are the two international forums through which this task is sought to be achieved.[1]

The Indian Parliamentary Group consisting of Members of Indian Parliament functions as the National Group of the Inter Parliamentary Union and also as the India Branch of the Commonwealth Parliamentary Association in conformity with the aims and objects of these two organisations.[2]

(Also *see* Inter-Parliamentary Union and Commonwealth Parliamentary Association)

[1]Kaul & Shakdher, p. 1100, Wilding & Laundy, p. 388
[2]*Ibid.* 1100

INTER-PARLIAMENTARY UNION

A world-wide organisation of Parliamentarians united in common action to secure and maintain the full participation of their respective State in the firm establishment and development of representative institution and promotion of international peace and cooperation, particularly by supporting the objectives of the United Nations.[1] Members of the Parliaments of different countries constitute different National Groups of this Union.

The headquarters of the IPU are in Geneva (Switzerland).[2]

The first I.P.U. Conference was held in Paris in 1989. Biannual conferences are held in one of the world's capital cities; the host country provides all the facilities for the conference. The conference in effect is an informal international Parliament where MPs of all countries and Parties can freely discuss the problems of the day. Frequent inter-changes of visits of Members of Parliament from each National Group also take place.

The Inter-Parliamentary Council carries out the central directions of the affairs of the I.P.U.; each National Group is represented on it by two delegates. The President of the Inter-Parliamentary Council is the ex-officio President of the Executive Committee which consists of thirteen members including the President; the term of a Member of Executive Committee other than President is four years.

The Indian Parliamentary Group, which consists of sitting Members of Parliament and associate members, functions as the National Group of Inter-Parliamentary Union and the India Branch of the Commonwealth Parliamentary Association.

Any sitting Member of Lok Sabha or Rajya Sabha may become ordinary/ life member of the Group on payment of the annual/life subscriptions prescribed under rules. Any ex-member of Parliament may be elected by the Executive Committee of the Group as an Associate Member. An ordinary member, on ceasing to be a member of Parliament, may become an associate member and are entitled to limited rights. The associate members enjoy such facilities as are decided by the Executive Committee from time to time.

The Executive Commitee of the Group is responsible for management and Control of all affairs of the Group. The Executive Committee consists of the President, two Vice-Presidents, Treasurer, and not more than 16 members. The Speaker of Lok Sabha is the ex-officio President of the Group and the Executive Committee and the Deputy Chairman of Rajya Sabha and Deputy Speaker of Lok Sabha are the ex-officio Vice-President of the Group. The

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[1]IPU pamphlet titled Inter-Parliamentary Union, 1889-1989; what it is what it does, November, 1988
[2]Kaul & Shakdher, p. 1100

Secretary-General, Lok Sabha, acts as the ex-officio Secretary-General of the Executive Committee and the Group. The members and the treasurer are elected at the Annual General Meeting from amongst the ordinary and life members of the Group and continue to hold office till the next election takes place. Every member other than associate member and associate life member enjoys the right to vote. Question is determined by a majority of members present and voting. In case of an equality of votes, the person presiding has a second or casting vote.

INTER-STATE COUNCIL

A Constitutional body for effecting co-ordination between States.[1]

In Australia, an inter-State Commission is established for the execution and maintenance within the Commonwealth of the provisions of the Australian Constitution relating to trade and commerce; in U.S.A. the Council of State Governments is created to consider inter-State problems of the broadest character[2].

In India, the council is established by the President by an order in the public interest; the President defines the nature of duties to be performed by it and its organisation and procedure; the duties of the Council are:

(a) to enquire into and advise upon disputes which may have arisen between States;

(b) to investigate and discuss subject of common interest between the Union and the States or between two or more States;

(c) to make recommendation upon any such subject particularly for better coordination of policy and action[3] with respect to that subject.

For the purpose of inter-state coordination the function of such a council will be complimentary to Article 252.

It is not necessarily a permanent body; can be *ad hoc;* separate councils can be set up to deal with separate subjects.[4]

Five zonal councils have been set up by the President for each of the five zones *i.e.,* Northern Zone, Central Zone, Eastern Zone, Western Zone and Southern Zone, under the States Reorganisation Act, 1951.[5]

Besides, there are other Councils such as Central Council for Health and Transport Development Council, which have been set up by the President[6].

The creation of such a Council would not oust the jurisdiction of the Supreme Court under Article 131[7].

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[1]Art. 263
[2]Basu (6th edn.) Vol. K; pp. 200-201
[3]Art. 263 (a), (b), (c)
[4]Basu, Vol. 1. K., p. 202
[5]Section 15 of the State Reorganisation Act
[6]Basu, Vol. K., page 202
[7]*Ibid,* page 201

J

JAMMU & KASHMIR

A State of India; its territory is the same which comprised the territory of the Indian State of Jammu & Kashmir before the commencement of the Constitution. The State acceded to the Dominion of India on 26.10.1947 after executing an Instrument of Accession[1].

Jammu & Kashmir enjoys a special status in the Indian union with regard to the operation of the Constitution. The position of this State differs from other States. The Legislative authority of the Union Parliament in respect of this State is limited to those matters in the Union and Concurrent Lists, which are declared by the President in consultation with the State Government, to conform to the terms of the Instrument of Accession. Only such of the other provisions of the Constitution will apply to this State as the President may by order specify[2].

The President can by order, modify and apply the other provisions to this State and the power to 'modify' includes the power to enlarge or add to an existing provision[3].

In exercise of his powers under Art. 370(1) (ii), the President made the Constitution (Application to Jammu & Kashmir) Order, 1954 in consultation with the State Government, which sets out comprehensively the position of the State within the framework of the Constitution of India *vis-a-vis* the Constitution of the State of Jammu and Kashmir as framed by the Constituent Assembly of the State[4].

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[1]Basu, Vol. 5, p. 313
[2]Article 370
[3]Article 370 (1) (d)
[4]Basu, Vol. 5, p. 245

JEOPARDY, DOUBLE

Subjection of an accused person to repeated trial for the same alleged offence[1].

Protection from such jeopardy has been provided in English common law '*nemo debet Vexari*' (meaning that a man may not be put twice in peril for the same offence) and in the Fifth Amendment to U.S. Constitution[2]. In India, no person can be prosecuted and punished for the same offence more than once;[3] the ambit and content of this guarantee are narrower than the American doctrine of 'double jeopardy' Article 20(2) bars a second prosecution only where the accused has been both prosecuted and punished for the same offence previously;[4] American principle is that there may be jeopardy even though the person was not actually punished in the previous proceeding[5].

Retrial after jury disagreement on a judgement cannot be a double jeopardy[6].

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[1]Dunner, p. 154
[2]Basu, Vol. 'D' (6th edn.), p. 14
[3]Art. 20(2)
[4]Basu (6th edn.), Vol. 'D', p. 18
[5]*Ibid,* p. 18
[6]Dunner, p. 154

JOINT SITTING

A joint sitting of both Houses of a bicameral Legislature for setting a disagreement between them[1].

In U.K., there is no provision for joint session of the House of Commons and the House of Lords. In Australia, a joint meeting of both Houses of Parliament is held for the purpose of settling a disagreement between them or where it is necessary that a majority of both Houses sitting together should be obtained before changes can be made to the Constitution or certain types of legislation passed[2].

Joint sittings of both Houses of Indian Parliament can be held in the event of—

(a) a Bill passed by one House being rejected by the other House;

(b) the Houses having finally disagreed as to the amendments to be made; and

(c) either House not passing the Bill for six months after it was transmitted to it by the other House.

The President summons the Houses to the joint sitting[3]; if the Bill has lapsed during the six months period due to the dissolution of the Lok Sabha, a joint sitting is not held. However, if the dissolution takes place after the President notifies his intention to summon the Houses to a joint sitting, it may be held after the new Lok Sabha is elected[4].

It is not mandatory for the President to summon the Houses to a joint sitting to resolve, the disagreement between them. In fact the receiving House can pass the Bill even after six months have elapsed since it was received from the transmitting House.[5]

The above provisions are not applicable to Money Bills. A joint session is also not envisaged in case of Constitution Amendment Bills.

The Secretary-General, Lok Sabha, issues Summons to members individually specifying the time and place for a joint sitting of the Houses. A joint sitting is presided over by the Speaker, Lok Sabha and in his absence by the Deputy Speaker, Lok Sabha or if he is also absent by the Deputy Chairman of Rajya Sabha. The rules of Procedure of Lok Sabha apply with such modifications and variations as the Speaker may consider necessary or appropriate at such joint sitting[6].

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[1]Wilding and Laundy, p. 412
[2]*Ibid*
[3]Art. 108
[4]Art. 108(5)
[5]Kaul & Shakdher, p. 38
[6]Art. 118 (4) and the Houses of Parliament (Joint sittings and Communications) Rules 3 and 7.

JOURNAL OF PARLIAMENTARY INFORMATION

Issued quarterly by Lok Sabha Secretariat; the first number appeared in April, 1955;[1] contains notes and articles on Parliamentary affairs in Commonwealth and foreign countries; aims at dissemination of authoritative information on continuously evolving Parliamentary Practices and Procedures; records important Parliamentary events and activities.[2]

[1]Wilding & Laundy, p. 412.
[2]Journal of Parliamentary Information (Vol. XXXV, No. 2), June 1989, p. 2 (cover page).

JUDGEMENT

Sentence of court of justice;[1] order or sentence given by a judge or law court;[2] the sentence of the law pronounced by the court upon the matter contained in the record;[3] a decision finally determining the right of the parties in the proceeding.[4] A judgement must be a decision pronounced by a court in cause which it hears on the merits.[5]

[1]Oxford, p. 700
[2]Webster, p. 1036
[3]Anderson, p. 576
[4]Kuppuswami V. The King. A.I.R. 1949, F.C.I.
[5]Hans Kumar V. Union of India, A.I.R. 1958, S.C. 947

JUDICIAL REVIEW

The power of the Court to review statutes or administrative acts and determine their constitutionality. The examination of Federal and state legislative statutes and the acts of executive officials by the Courts to determine their validity according to written Constitutions.[1] In England, the judiciary has no power to reveiw the laws made by Parliament.[2] The U.S. Supreme Court exercises the power to judicial review of Acts passed by the Congress and has struck down several statutes as unconstitutional.[3]

In India, all legislation whether Central, State or delegated, are subject to the doctrine of *ultra vires* and liable to judicial review. The scope of review is limited to seeing whether the legislation impugned falls within the periphery of the power conferred and whether it contravenes any of the articles of the Constitution. The legislature can amend laws to meet the lacunae or defects pointed out therein by the Courts, or legislate afresh to give effect to their original intentions and such amendments etc. are accepted by the Courts as valid law. In the last resort, Parliament which has plenary and unfettered powers to amend and Constitution can amend it to override the effect of a judicial decision. The final say as to what the Constitution means rests with Supreme Court.[4] Even the Constitution amendments are subject to judicial review.[5]

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[1]Dunner, p. 285
[2]Limited Govt. & Judicial Review by D.D. Basu, p. 275
[3]Dunner, p. 285
[4]Kaul & Shakdher, p. 1063
[5]Constitution Amendment in India (L.S.S.) 5th Ed. 1986, pp. 11-12

JUDICIARY

The judges of the State collectively;[1] the part of Government whose work is the administration of justice;[2] a system of courts;[3] the body of officers who administer the law.[4]

Judiciary is independent of the executive in England.[5]

The Constitution of India makes the Indian judiciary separate from and independent of the Executive as in England; this is achieved by providing for (i) immunity from outside influence, (ii) security of tenure, (iii) favourable conditions of service, (iv) oath of Office, (v) the judicial decisions binding on the Executive, and (vi) the power to punish for its own contempt[6].

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[1]Oxford, p. 657
[2]Webster, p. 792
[3]Chambers, p. 522
[4]Anderson, p. 579
[5]Basu (6th edn.), Vol. G, P. 199
[6]*Ibid,* pp. 199-202

K

KANGAROO

The method of allowing the Chairman to decide which clauses should be discussed and which passed or leaped over.[1]

A colloquial term for the power with which the Speaker of House of Commons, the Chairman and Deputy Chairman of Ways and Means and the Chairman of Standing Committees are invested to select what amendments and new clauses shall be proposed so that limited time available is used to the best advantage.[2] The process of selecting amendments is known as 'Kangaroo' because it involves 'jumping' over certain amendments on the order paper.[3] India has not adopted this method.

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[1]Chambers, p. 526
[2]Abraham & Hawtry, p. 110
[3]Wilding & Laundy, p. 686

L

LAME DUCK SESSION

The sittings of an elected Assembly which continues in office during the period between election and the inauguration of a successor;[1] an ineffective, helpless or disabled session.[2]

In U.S. there used to be a post election session of the Congress which permitted members to sit and vote even though they had been defeated in the November election; this session was called Lame Duck Session; abolished in 1933 by the Twentieth Amendment of the Constitution.[3]

In India one such session each of preceding Lok Sabha was held during the years 1957 and 1962 when the elections to the new Lok Sabha had been held but new Lok Sabha had not been yet duly constituted, to pass the vote on account, these were known as "Lame Duck" Session.[4]

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[1]American Dictionary, p. 734.
[2]Random House Dictionary, p. 803
[3]Century Cyclopaedia, p. 2367
[4]Kaul & Shakdher, p. 424

LANGUAGE

Human-speech, the expression or communication of thoughts and feelings by means of vocal sounds and combinations of such sounds to which meaning is attributed; all the vocal sounds, words and the ways of combining them common to a particular nation, tribe or other;[1] vocabulary and way of using it prevalent in one or more countries, words and their use, faculty of speech, person's style of expressing himself;[2] mode of expression, diction, any manner of expressing thought or feeling;[3] the language/languages permitted to be used in a legislature; also the temper and character of language used therein.

Good temper and moderation are the characteristics of Parliamentary language. Parliamentary language is never more desirable than when a member is canvassing the opinions and conduct of his opponents in the debate.[4]

In the British Parliament, the only language allowed is English; but quotation in a foreign language has been allowed on occasion, though a translation should be provided.[5]

Unparliamentary expressions are not permitted; reference in debate to either House must be courteous; the Chair intervenes immediately when imputations of falsehood are uttered by Members of the House of Commons against Members of the House of Lords; the member is asked to withdraw the offensive words and in default he is punished with suspension.

A Member is also not allowed to use unparliamentary words by putting them in somebody else's mouth.[6]

In the Indian Parliament, the business is transacted both in Hindi and English; speeches made in Hindi are simultaneously interpreted into English and *vice-versa*. Similarly, a member who cannot adequately express himself in Hindi or English, is permitted by the Presiding Officer to address the House in his mother-tongue.[7] Speeches made in regional languages such as Assamese, Bengali, Bodo, Dogri, Gujarati, Kannada, Kashmiri, Konkani, Maithili, Malayalam, Manipuri, Marathi, Nepali, Oriya, Punjabi, Sanskrit, Santhali, Sindhi, Tamil, Telugu, and Urdu are simultaneously interpreted into English and Hindi; however, if a member addresses the House in a language in which no facility for simultaneous interpretation exists, he has to furnish a translation of his speech in Hindi or English.[8]

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[1]Webster, p. 821
[2]Oxford, p. 678
[3]Chambers, p. 542
[4]May, p. 386
[5]May, p. 371
[6]*Ibid,* pp. 386-87
[7]Art. 120
[8]8th Schedule of the Constitution; Direction 115B

Business in the Legislative House of a State is transacted in the official language or languages of that State or in Hindi or English.[9] The authoritative texts of Bills, amendments etc. introduced in Parliament can be in English or Hindi; those introduced in the State Legislatures can be in the respective regional languages.[10]

Members while speaking in the House are required to use dignified language. Use of defamatory, indecent or unparliamentary expressions is prohibited. These expressions are expunged from the proceedings;[11] also, no offensive expression about the conduct or proceedings of Parliament or any State Legislature or reasonable utterances are allowed.[12]

[9]Art. 210
[10]Act No. 19 of 1963 and Art. 348 of the Constitution as amended by Act No. 43 of 1987
[11]Rule 380 (Lok Sabha) and Rule 261(Rajya Sabha)
[12]Rule 352

LAW

Body of enacted or customary rules recognised by a community as binding;[1] all the rules of conduct established and enforced by the authority;[2] a rule of action established by authority; Statute.[3]

Under the Constitution of India, law includes any ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;[4] laws inconsistent with or in derogation of the fundamental rights are void.[5] This, however, does not apply to an amendment of the Constitution under Art. 368.[6]

An agreement between a native ruler and a company exempting the Company from taxes and action, is not law.[7]

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[1]Oxford, p. 684
[2]Webster, p. 828
[3]Chambers, p. 546
[4]Art. 13(3)(a)
[5]Art. 13
[6]Arts. 13 and 368
[7]Bengal N.C. Mills V. Board of Revenue, M.P., A.I.R. 1964, S.C. 888

LEADER OF THE HOUSE

Member of Government with official initiative in business in the House of a Legislature;[1] A member of the Government appointed by the Prime Minister to control the arrangement of business in the House; the Prime Minister himself.

In the House of Commons, a member of the Government primarily responsible to the Prime Minister for planning, supervising and arrangement of Government business in consultation with Chief Government Whip;[2] announces the business for the following week; keeps in harmony the actions of his colleagues; takes the initiative in matters of ceremonial procedure;[3] one of the principal guardians of the rights of House of Commons as a whole; he is accessible to both sides of the House.[4] When a member is named by the Speaker or Chairman of Committee of the whole House, Leader of the House invariably moves that the offender be suspended from the service of the House;[5] expresses, in the absence of Prime Minister the sense of the House on formal occasions and advises the House in every difficulty as it arises.[6]

In the House of Lords too, Leader of the House is a member of the Cabinet, appointed by the Prime Minister; entrusted with the conduct of Government business; he has an additional function which is to advise the House on matters of procedure and to act as the principal voice of the House in maintaining order. He also expresses the sense of the House on formal occasions.[7]

In Lok Sabha, the Prime Minister usually functions as the Leader of the House; if he is not a member of this House, a Minister, who is a member of the Lok Sabha and is nominated by the Prime Minister functions as such. Leader of the House is an important Parliamentary functionary; exercises direct influence on the course of business as whole policy of the Government is concentrated in his person; responsible for arrangement of Government business; makes proposals for dates of summoning and prorogation of the House for the approval of the Speaker; draws up weekly and daily programme of official business to be transacted and fixes *inter se* priority for various items of business; on his behalf, Minister of Parliamentary Affairs announces this programme in advance every week; he shapes the course and content of legislation and enjoys final voice in deciding the acceptance of amendments.[8]

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[1]Oxford, p. 688
[2]May, p. 212; Abraham & Hawtrey, p. 111
[3]Gladstone, 'Cleaning', 1, p. 242, Quoted by Jennings in 'Parliament', P. 75
[4]Willing & Laundy, P. 427
[5]Abraham & Hawtrey, p. 112
[6]May, p. 212
[7]May, p. 214
[8]Kaul & Shakdher, pp. 139-140

He deals with all procedural matters and advises the House in every difficulty and enjoys the right to address the House whenever he likes; acts as a leader of his party; at times he acts as the spokesman and representative of the whole House when it is desired to give expression to the feelings of Lok Sabha on some event of importance in home or foreign affairs; maintains liaison between the Government and Opposition Groups in the House. He is the guardian of legitimate rights of the Opposition as well as those of the Government.[9]

[9]Kaul & Shakdher, p. 141

LEADER OF OPPOSITION

Leader of the largest minority Party in a legislature; an office recognised under the Rules of the House.

In the House of Commons, leader of her Majesty's Opposition having the greatest numerical strength; regarded as Her Majesty's alternative Prime Minister; it is assumed that in the event of the resignation of the Government, the Leader of the Opposition shall form the Government; he forms a group known as 'Shadow Cabinet' with some of his colleagues from both Houses;[1] his duties include arranging of business programme in consultation with leader of the House and the Whips;[2] seventeen allotted days are placed at his disposal in each session, when matters selected on these days should have precedence over Government business.[3] In the Lords, Leader of Opposition has functions similar to his corresponding figure in House of Commons.[4]

In Lok Sabha or Rajya Sabha, Leader and official spokesman of the largest recognised opposition party if there is a party duly recognised as such. A Parliamentary Party gets recognition as a Party in the House if it has one tenth of the total membership of the House.[5] Leaders of Opposition Parties so recognised in the Lok Sabha and Rajya Sabha are entitled to receive a salary per mensem and allowances for each day at the same rate as are specified in Section 3 of the Salary, Allowances and Pension of Members' of Parliament Act, 1954 with respect to Members of Parliament.

They are also entitled for free furnished accommodation and telephones in office and residence. No charge is payable by them in respect of the rental of telephones. They are also entitled to secretarial staff facilities.

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[1]Wilding & Laundy, p. 428
[2]*Ibid*
[3]May, p. 271
[4]*Ibid*, p. 214
[5]The Salary & Allowances of Leader of Opposition in Parliament Act, 1977 (Act 33 of 1977)

LEAVE OF ABSENCE

The formal granting of leave of absence to a member of Parliament.[1]

In the House of Commons, it is not considered necessary to grant leave of absence to a member in the ordinary course of his business; however, leave is frequently given to official delegations from the House. The Speaker is given leave of absence when he pays official visits etc.; for this purpose, the Government tables a Motion for an Order.[2]

The Lords have to obtain leave of absence. The House appoints a Committee each Session called the Leave of Absence and Lords' Expenses Committee to supervise the arrangements with regard to granting of leave; however, a Lord who is unable to attend regularly is not required to apply for leave if he proposes to attend as often as he can; a Lord may apply for leave of absence any time during a Parliament for the remainder of the Parliament.[3]

In India, if a member of either House of Parliament remains absent from all sittings of the House for a period of sixty days without permission of the House, his seat may be declared vacant;[4] the period of sixty days is a single unbroken period;[5] a member who has not made and subscribed the oath or affirmation is also entitled to ask for leave of absence from the sittings of the House.[6]

The Lok Sabha appoints a Committee called the Committee on Absence of Members from the sittings of the House before which all applications from the Members seeking leave of absence are placed for its consideration and report.[7] The recommendations of the Committee for grant of leave or condonation of absence are brought before the House and its pleasure is taken by the Chair. In case of a member who has remained absent for sixty days without seeking permission of the House, the Committee may recommend to the House that a motion may be moved for declaring his seat vacant.[8]

Rajya Sabha has no such Committee; the applications are read out in the House by the Chair and the pleasure of the House is taken.[9] If a member remains absent for a period of 60 days without permission of the House, the Leader of the House, or any other member to whom he may delegate his functions, moves the motion for declaring his seat vacant.[10]

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[1]Wilding & Laundy, p. 1
[2]May, p. 180
[3]*Ibid*, p. 179
[4]Art 101(4)
[5]Kaul & Shakdher, p. 379
[6]*Ibid*, p. 340
[7]Rule 243 & Kaul and Shakdher, p. 387
[8]Kaul & Shakdher, p. 387
[9]Rajya Sabha, Rule 214
[10]*Ibid*, 215(1)

LEAVE OF THE HOUSE

The formal approval given by the House of a Legislature to a member to move a motion or withdraw the same. The member can seek the leave of the House only after he has been permitted to do so by the Speaker; he then rises in his place and asks for leave. After the leave is granted, the member cannot withdraw his motion without the permission of the House.

In the House of Commons, a bill ordered in without any preliminary proceedings is 'brought in' with the leave of the House; nomination of the Select Committees is also done with the leave of the House;[1] however, in the House of Lords, it is the privilege of any member to present a bill without moving for leave to bring in.[2]

In the Lok Sabha, formal leave of the House has to be obtained to introduce a Bill, move motions such as adjournment motion, motion of no-confidence in the Council of Ministers, resolution for removal of Speaker/ Deputy Speaker, to raise a question of privilege etc.[3] Similarly, leave of the House is necessary to withdraw a Bill or an amendment thereto or resolution or an amendment thereto moved in the House.[4]

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[1]Standing Order No. 12 of the House of Commons (1951) and May, p. 515
[2]*Ibid*, p. 494
[3]Kaul & Shakdher, pp. 549, 514, 105, 102—106, 653, 976, 294—297 and Rules 201, 225
[4]Rules 110, 180(2) and 87

LEGAL PROCEEDINGS

Any civil or criminal proceeding or enquiry in which evidence is, or may be, given; includes an arbitration;[1] all steps or measures adopted in the prosecution or defence of an action.[2]

The Government of India may sue and be sued by the name of the Union of India; a State may sue and be sued by the name of the State.[3] This provision does not give rise to any cause of action, but merely says that the State can sue or be sued, as a juristic personality.[4]

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[1]Stroud, Vol. 2, p. 1439
[2]Anderson, p. 816
[3]Art. 300
[4]State of Punjab *v.* O.G.B. Syndicate, A.I.R., 1964, S.C. 669

LEGISLATION (SUBORDINATE)

Making of statutory instruments or orders by a body subordinate to the legislature in exercise of the power within specific limits conferred by the legislature; also covers statutory instruments themselves.[1]

(For details *see* under "Delegated Legislation")

[1]Kaul & Shakdher, p. 630

LEGISLATIVE ASSEMBLY

House of State Legislature; where the legislature is bi-cameral, it is applied to the Lower House[1]; composed of members chosen by direct elections[2]; seats to be reserved for Scheduled Castes and Scheduled Tribes in proportion to total number of seats in Assembly and their total population in the State[3]; Governor may nominate members of Anglo-Indian community if it is not adequately represented in the Assembly[4]; total membership not more than 500 and not less than Sixty[5]; normal duration five years provided that the said period may while a proclamation of Emergency is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not exceeding in any case beyond a period of six months after the proclamation has ceased to operate, but may be dissolved earlier by the Governor.[6]

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[1]Art. 168(1)(a)
[2]Art. 170(1)
[3]Art. 332(1) & (3)
[4]Art. 333
[5]Art. 170(1)
[6]Art. 172 & 174(2)(b)

LEGISLATIVE COMPETENCE

The legal capacity, power or jurisdiction of a legislative body to make law.

The British Parliament has unlimited power to legislate on all matters and persons within its jurisdiction with two qualifications:

(a) limitations on its powers over the dominions many of which have become independent nations;

(b) limitations imposed by European Communities Act, 1972.

With the passage of this Act, legislation on specified matters passed by the competent institutions within the communities can become law, without being approved by Queen, Lords and Commons.[1]

There are two limitations on the legislative competence of the Parliament and the Legislatures of States in India: (i) limitations relating to distribution of Powers, and (ii) limitations relating to Fundamental Rights.

There is a three-fold distribution of legislative powers between the Union and States. Parliament has exclusive power to make laws on subjects specified in the Union List while the State Legislatures are competent to make laws on subjects included in the State List. The concurrent List enumerates subjects with respect to which both Parliament and the State legislatures have power to make laws. The residuary power of legislation *i.e.,* the power to make law with respect to any matter not enumerated in the Concurrent List or the State List is vested in Parliament. This power includes the power of making a law imposing any tax not mentioned in either of these lists.[2]

Parliament and the State Legislatures cannot make any law which takes away or abridges the Fundamental Rights. A law which contravenes these Rights, shall, to the extent of the contravention, be void[3] however, the Court cannot prevent a legislature from proceeding with a legislation, which, when enacted, will contravene a Fundamental Right. A writ of prohibition does not lie against the legislature to restrain it from exercising its legislative powers.[4]

Where a proclamation of emergency is in operation, the President may, by order; declare that the right to move any court for the enforcement of such of the fundamental rights, excepting articles 20 and 21 (right to protection in respect of conviction of offences and protection of life and personal liberty, respectively), as may be mentioned in the order and all proceedings pending in any court for the enforcement of the rights so mentioned, shall remain

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[1]May, pp. 52, 53
[2]Kaul & Shakdher, p. 543
[3]Art. 13(2)
[4]Basu, 6th edn., Vol. A (1973), p. 335

suspended for the period during which the proclamation is in force or for such shorter period as may be specified in the order.

The Constitution further confers on the Parliament and the Executive the power to make any law or to take any executive action which the State may otherwise not be competent to make or to take in view of the provisions of Part-III of the Constitution, so long as the proclamation of emergency is in operation. In other words, nothing in that Part shall restrict the power of the State to legislate upon or take executive action with regard to such of the fundamental rights as may be specified in the Presidential Order excepting Articles 20 & 21 which are inviolable.[5] During Emergency Parliament also gets power to legislate on any of the matters enumerated in the State List.[6]

Parliament also gets power to legislate with respect to a matter in the State List in the national interest when a resolution to this effect is passed by the Rajya Sabha by a majority of two-thirds of the members present and voting[7]; Parliament can also exercise the powers of the Legislature of a State when it is under President's rule.[8]

It is also lawful for Parliament to legislate on a State subject if it appears to two or more States to be desirable that any matter in the State List should be regulated in such States by Parliament by law and if resolutions to that effect are passed by the Legislatures of those States. Any Act so passed by Parliament shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the Legislature of that State.[9]

In Lok Sabha where a Bill is opposed on the ground that it initiates legislation outside the legislative competence of the House, the Speaker may permit a full discussion on the question of legislative competence. However, it is the accepted practice in Lok Sabha that the Speaker does not give any ruling on the question whether a Bill is constitutionally within the legislative competence of the House or not. The House also does not take a decision on the specific question of *vires* of a Bill. It is open to members to express their views in the matter and to address arguments for and against the *vires* for the consideration of the House. The members take this aspect into account in voting on the motion for leave to introduce the Bill or on the subsequent motions on the Bill.[10]

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[5]Article 359
[6]Art. 250
[7]Art. 249
[8]Art. 356
[9]Art. 252
[10]Rule 72 and Kaul & Shakdher, pp,. 544-545

LEGISLATIVE COUNCIL

Upper House of a State Legislature having two Chambers[1]; its total membership does not exceed one-third of the total number of members of the Legislative Assembly of that State, but it should not be less than 40; one-third of its members elected by members of municipalities, district boards and the local authorities, one-twelfth elected by graduates of at least 3 years' standing of any Indian University, one-twelfth elected by teachers engaged in teaching for 3 years in any School not below the standard of secondary school, one-third elected by members of Legislative Assembly from amongst persons not members of Legislative Assembly and one-sixth to be nominated by Governor in accordance with provision of clause 5 of Art.171; Parliament may by law vary this method[2]; on the recommendation of the Legislative Assembly by a majority of the total membership of the Assembly and by a majority of not less than two-thirds of the members of the Assembly present and voting, Parliament can abolish or create Legislative Councils in States[3]; not subject to dissolution but one-third of the members of this House retire on the expiration of every second year as provided in the law passed by Parliament.[4]

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[1]Art. 168(2)
[2]Art. 171(1) to (5)
[3]Art. 169
[4]Art. 172(2)

LEGISLATIVE RELATIONS

Relations relating to law-making power; Parliament to make laws on the subjects mentioned in Union List and State Legislatures on those mentioned in State List[1]; Parliament and State Legislatures can legislate on matters in concurrent list[2]; in case of conflict the Union law prevails[3]; residuary powers of legislation are with Parliament[4]; Parliament enjoys power to legislate on a State subject in national interest, it can also legislate on a State subject during the proclamation of emergency[5]; legislative power to implement international agreements is vested in Parliament[6]; as also the power to amend the Constitution.[7]

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[1]Art. 246(1) & (3)
[2]Art. 246(2)
[3]Prafulla Kumar *Vs.* Bank of Commerce, AIR, 1947, PC,. 60
[4]Art. 248
[5]Arts. 249 & 250
[6]Art. 253
[7]Art. 368

LEGISLATURE

Law making body[1]; legislative body of a State[2]; the body of persons in a State authorised to make, alter and repeal laws. It may consist of one or two Houses with similar or different powers.[3] Union legislature is known as Parliament which consists of the two Houses and President[4]; State Legislature consists of one or two Houses and Governor[5]; the normal duration of the House of People and Legislative Assembly is for 5 years; Legislative Council and Council of States are not subject to dissolution[6]; the legislature cannot delegate its essential functions.[7]

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[1]Chambers, p. 551
[2]Oxford, p. 692
[3]Wilding & Laundy, p.429
[4]Art. 79
[5]Art. 168
[6]Arts. 83 (1) & (2); 172 (1) & (2)
[7]Delhi Laws Act, 1912, AIR, 1951 SC 345

LIABILITY

Anything for which a person is liable[1]; an obligation to do a particular thing; obligation to pay money[2]; In U.K., a government servant is not personally liable on contracts which he executes in his official capacity unless he has intention to make himself personally liable[3].

In India, the President or the Governor is not personally liable for the contracts executed in his name. An officer executing such a contract also enjoys immunity from personal liability[4].

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[1]Webster, p. 843
[2]Anderson, p. 616
[3]Basu, Vol. L, p. 112
[4]Art. 299 (2) and Basu, Vol. L, p. 113

LIBERTY

Freedom or release from slavery, imprisonment, captivity, or any other form of arbitrary or despotic control; the sum of rights and exemptions possessed in common by the people of a community, State etc.; the condition of a free man; freedom from restraint[1]; the right not only of freedom from servitude, imprisonment or restraint, but the right of one to use his faculties in all lawful ways, to live and work where he will, to earn his livelihood in any lawful calling, and to pursue any lawful trade or avocation[2]; liberty is something which results from a permission given to or something enjoyed under sufferance by a particular person or body of persons as opposed to enjoyment by all and sundry[3].

In England, the Courts and the House are zealous to uphold the liberty of its subejcts; however, that liberty is controlled and confined by law[4]. The Indian Constitution secures to all citizens of the country the liberty of thought, expression, belief, faith and worship[5]; personal liberty is a comprehensive term including all the varieties of rights[6]; personal liberty of all persons protected[7]. Before a person is deprived of his personal liberty or his life, procedure established by law must be strictly followed and must not be departed from to the disadvantage of the person affected[8].

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[1]Oxford, p. 698 & Webster, p. 844
[2]Anderson, p. 619
[3]Stroud, Vol. 2, p. 1459
[4]Liversidge *V.* Anderson (1942), A.C. 206, (260) quoted by Basu, Vol. D, p.82
[5]Preamble to the Constitution
[6]Kharak Singh *V.* State of U.P., AIR 1963, SC 1295
[7]Art. 21
[8]Basu, Art. 21, Vol. 2. p. 76

LOBBY

A corridor or hall connected with a larger room or series of rooms and used as a passage-way waiting room[1]; a part of a hall of legislature not appropriated to official use[2].

In Britain, the central point of the Houses of Parliament is known as Central Lobby where members of public come to see their Parliamentary representatives and where journalists, Parliamentary agents, officials etc. are also allowed[3]. The Commons (Members) Lobbies or Division Lobbies are long narrow rooms of British House of Commons to which members go to vote when the House divides on a motion[4]; when a private notice question is allowed by the Speaker or when explanations are to be made by Ministers on behalf of the Government, notices to that effect are placed in the Members' Lobby and also displayed on the annunciator.

In India, the Lobby of Lok Sabha means the covered corridor immediately adjoining the Chamber and coterminous with it[5]; comprises the inner Lobby (also called Division Lobby) and outer Lobby. The Lobby is intended for the use of Members of Parliament and former members of Lok Sabha. The Central Hall is an extension of the Lobbies of both the Houses and is primarily meant for the use of Members of Parliament. During the sittings of the House, former members of Parliament and certain press correspondents and, on specific request, Governors and Ministers of States and Presiding Officers etc. are also admitted to the Central Hall, as per guidelines laid down by the Speaker. At the commencement of the first session after each general election of Lok Sabha and at the commencement of the First Session of each year, the President addresses both Houses of Parliament and the visitors are also allowed to listen to the Presidential Address from the Lobbies or Galleries of the Central Hall. Addresses to Members of Parliament by the Heads of the foreign States or their Prime Ministers or by other distinguished visitors are arranged in the Central Hall[6].

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[1]Webster, p. 1326
[2]Anderson, p. 637
[3]Abraham and Hawtrey, pp. 105-06
[4]May, p. 306
[5]Rule 2 (1)
[6]Kaul & Shakdher, pp. 955-956

LOBBYING

To frequent the lobby in order to influence members or to collect political intelligence[1]; seeking to influence the vote of a member of legislature by bribery, promise of reward, intimidation or other dishonest means[2]. In U.K. the practice of frequenting the lobby of a legislature for the purpose of influencing members' votes on some proposed legislation[3]; it is a common practice there for memoranda to be circulated to members and for meetings to be called by interested members in the Committee Room[4].

[1]Chambers, p. 565
[2]Oxford, p. 714
[3]Wilding & Laundy, p. 437
[4]Jennings (P), p. 230

LOCAL AUTHORITY

Elected body for local Government *i.e.* Town Council, Country Council;[1] a Council of a country to which powers or duties are transferred or delegated under an Act of Parliament;[2] political sub-divisions functioning within the framework of Constitution and enjoying certain degree of autonomy serving as administrative units for State services.[3]

In India, it refers to Municipal Committee, District Board, Municipal Corporation, Improvement Trust, Mining Settlement Authority, local authority for villlage administration entrusted with the control of management of municipal or local fund.[4]

[1]Chambers, p. 566
[2]Wharton, p. 604
[3]Dunner, p. 321
[4]Sec. 3 (31) G.C.A, 1897 and Entry 5, List II, 7th Schedule of the Constitution

LOCUS STANDI

Recognised position; right to intervene, appear in Court etc.:[1] place for standing; right to be heard:[2] the right of a petitioner against a private, provisional order or hybrid bill or special procedure order to be heard upon his petition. A petitioner has locus standi when his interest is directly hit by the bill, if passed into law.[3]

[1]Oxford, p. 715
[2]Anderson, p. 637
[3]Abraham & Hawtrey, p. 113

LOK SABHA

The House of the People *i.e.* Lok Sabh consists of a maximum of 552 members, including two representing the Anglo-Indian Community filled by nomination by the President; 530 members are directly elected from territorial constituencies in the States and not more than 20 Members are chosen to represent Union Territories. 79 seats are reserved for Scheduled Castes and 41 for Scheduled Tribes.[1] Effective strength of Eighth Lok Sabha is 545 (530 directly elected, 2 Anglo Indians—nominated by the President and 13 representing Union Territories filled by persons chosen by direct elections).[2]

Elections to Lok Sabha are held on the basis of adult suffrage. A person who is a citizen of India and is not less than 25 years of age and possesses such other qualifications as may be prescribed by law made by Parliament, is qualified to be chosen to fill a seat in Lok Sabha.[3]

Lok Sabha is summoned periodically by the President. The quorum to constitute a sitting of Lok Sabha is one-tenth of the total membership of the House.[4] Normally three sessions—Budget, Monsoon and Winter—are held in a year.[5]

Speaker is the Head of Lok Sabha; he represents its collective voice and is its principal spokesman.[6] Prime Minister is the leader of Lok Sabha if he is a member of the House.

Lok Sabha enjoys more powers than Rajya Sabha in financial matters. While the annual budget is laid before both the Houses of Parliament, the demands for grants can only be submitted to and assented by the Lok Sabha.[7] Similarly money bills and financial bills attracting the provisions of articles 110 and 117 (1) of the Constitution can be introduced only in the Lok Sabha; if a question arises as to whether a Bill is Money Bill, the decision of the Speaker of Lok Sabha is final.[8] A Money Bill, passed by Lok Sabha and transmitted to the Rajya Sabha, has to be returned to the Lok Sabha within 14 days of the receipt of the same with or without recommendations; the Lok Sabha has the right to reject any or all of the recommendations suggested by the Rajya Sabha. In case the recommendations are rejected, the Bill is deemed to have been passed by both Houses in the form in which it was

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[1]R.P. (Amdt.) Act, 1976, First Schedule

[2]Goa, Daman and Diu Reorganisation Act, 1987—Section 63

[3]Art. 84 a, b, c

[4]Kaul &Shakdher, p. 398

[5]*Ibid*, p. 144

[6]Kaul & Shakdher, p. 113

[7]Arts. 113 (2) and 114(1)

[8]Art. 110(3)

passed by Lok Sabha. The same consequence follows if the Bill is not returned to the Lok Sabha within 14 days.[9]

The Lok Sabha also has exclusive power to grant Supplementary/Excess Demands for Grants, votes on account, votes of credit and make exceptional grants.[10]

Lok Sabha transacts a great deal of its business through its standing or *ad hoc* Committees. The composition and functions of these Committees are laid down in the rules and directions by Speaker.[11]

The term of Lok Sabha is five years. However, the President may dissolve Lok Sabha before expiry of its term by an order. During emergency, Parliament may extend by law the duration of Lok Sabha by a year at a time and not extending in any case beyond a period of six months after the Proclamation of Emergency has ceased to operate.[12]

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[9]Art. 109
[10]Arts. 115 & 116
[11]Direction 108A
[12]Art. 83(2)

LOK SABHA SECRETARIAT

The Secretariat of the House of the People; known as Legislative Assembly Department when it was first set up as a separate self-contained Department on January 10, 1929. Later the name was changed to Parliament Secretariat on January 26, 1950 when the Constituent Assembly emerged as the Provisional Parliament. Even after the creation of two separate Houses— the Council of States (Rajya Sabha) and the House of the People (Lok Sabha)— in 1952 under the new Constitution, the Secretariat of the House of the People continued to be called the Parliament Secretariat while a new Secretariat called the "Council of States Secretariat" was set up for the Council of States. Their names were changed to Lok Sabha Secretariat and Rajya Sabha Secretariat respectively on 13th March, 1954.[1]

The Constitution of India [Art. 98 (1)] provides that each House of Parliament shall have a separate Secretariat but posts common to both Houses of Parliament may be created.

Lok Sabha Secretariat has an independent status with the Speaker as its head; it has the same status in respect of financial and administrative powers as a Ministry of the Government of India has. The Speaker issues orders with regard to the recruitment, conditions of service of the employees, creation of posts etc. He delegates certain powers to the Secretary-General in matters connected with the administration of the rules.[2] It is not open to the Executive Government to scrutinise the decisions of the Speaker about matters concerning the Secretariat. As per well established convention, the Speaker is the sole judge and controller in respect of appointments, promotions etc.[3]

The orders issued by the Government to the Ministries and Departments do not automatically apply to this Secretariat; these are adapted under orders of Speaker with or without modifications.[4]

Parliament is empowered to pass legislation to regulate the recruitment and conditions of service of the employees of the Secretariat;[5] however no law has so far been made in this respect.

The main function of the Secretariat is to serve the House and its Committees. With a view to improving its functioning, the Secretariat was reorganised on functional basis in 1974. The main services into which it was reorganised are as follows:—

1. The Legislative, Financial Committees, Executive and Administrative Service

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[1]Kaul & Shakdher, p. 1014 Sixty years of servicing the Central Legislature by Subhash C. Kashyap, pp. 10 & 14
[2]Kaul & Shakdher, p. 1016
[3]*Ibid*, p. 1019
[4]*Ibid*, p. 1019
[5]Art. 98(2)

2. The Library, Reference, Research, Documentation and Information Service
3. The Verbatim Reporting, Personal Secretaries and Stenographic Service
4. The Simultaneous Interpretation Service
5. The Printing & Publications Service
6. The Editorial & Translation Service
7. The Watch & Ward, Door-keeping and Sanitation Service
8. The Clerks Typists, Record Sorters and Daftries Service
9. The Messenger Service

The budget of the Lok Sabha and its Secretariat is sanctioned by Parliament through the Appropriation Act every year.[6]

[6]Kaul & Shakdher, pp. 1018 to 1021

M

MAIDEN SPEECH

M.P.'s first speech in Parliament;[1] one's first or earliest speech especially in Parliament;[2] the first speech which a member makes in the House of Commons.[3] By courtesy he is not interrupted and it is customary to give precedence to him and for the following member to compliment him.

In the Indian Parliament too a maiden speech, as a matter of courtesy, is not interrupted.

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[1]Oxford, p. 734
[2]Webster, p. 883
[3]Abraham & Hawtrey, p. 117; Wilding & Laundy, pp. 380-381

MAJOR PORT

A major harbour; town, place possessing harbour especially where custom officers are stationed;[1] means a port declared to be a major port by or under any law made by Parliament or any existing law and includes all areas for the time being included within the limits of such port.[2] President is empowered to exclude, restrict or modify the laws made by Parliament or a State Legislature or the existing laws in their application to major ports.[3]

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[1]Oxford, p. 947
[2]Article 364 (2) (a) and Basu, Vol. 5, p. 213
[3]Basu, Vol. 5, p. 203; and Art. 364

MANDAMUS

We command you;[1] a high prerogative writ of a most extensive remedial nature; used principally for public purposes, and to enforce performance of public duties; issued only when the party has no other specific remedy;[2] an established remedy to oblige inferior Courts and magistrates to do that justice which they are in duty, and by virtue of their office, bound to do; compels officers and others to act in the discharge of the duties and trusts imposed upon them.[3]

In England, this writ does not issue to the Crown or any public servant acting as the agent of the Crown unless there is a statutory liability.[4]

In India, the Supreme Court as well as the High courts can issue this writ; while the Supreme Court can issue it for the enforcement of any of the Fundamental Rights, the High Courts are empowered to issue it for any other purpose too;[5] can be issued to any government within the territorial jurisdiction of the competent courts;[6] however it will not issue against the legislature, even when it is going to enact a law which offends against Fundamental Rights.[7]

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[1]Anderson, p. 651
[2]Wharton, p. 624
[3]Anderson, p. 651
[4]Basu (6th edition), Vol. H; p. 281
[5]Arts. 32 and 226
[6]Art. 226
[7]Chotey Lal *V.* State of U.P., A.I.R. 1951, Art. 328

MARSHAL

A military commander;[1] an Officer of the highest military rank;[2] an Officer appointed to help the Speaker of a legislature to maintain order in the House.

In the House of Commons, there is a Serjeant at arms to attend upon the Speaker; appointed by the Queen; some of his duties are to attend the Speaker, with the mace, on entering and leaving the House or going to the House of Lords, or attending her Majesty with addresses, remove persons directed to withdraw from the House, bring to the bar of the House persons in custody to be reprimanded by the Speaker, execute warrants for commitment of persons ordered into custody by the House etc.[3]

In the Lok Sabha, the Marshal is appointed to help the Speaker in maintaining order in the House; does not have the powers of the Serjeant at Arms of the House of Commons in executing warrants etc.[4]

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[1]Webster, p. 900
[2]Chambers, p. 591
[3]May, p. 198
[4]Kaul & Shakdher, p. 260

MARTIAL LAW

Temporary rule by the military authorities over the Civilian population;[1] exercise of arbitrary power by the supreme authority in time of emergency;[2] suspension of ordinary law and the government by military tribunals;[3] the law of military necessity in the presence of war.[4]

Martial Law is arbitrary in its decisions and is not built on any settled principles;[5] it is government of a country or district by military tribunals which more or less supersede the jurisdiction of the Courts;[6] refers to military rule in domestic areas in which suspension of municipal law has been declared.[7]

Martial Law which means the suspension of ordinary law and the temporary government of the country or parts of it by military tribunals is unknown to the law of England; it is the common law right of every citizen to maintain order at any cost; in theory, the Crown has a prerogative to declare martial law in time of war; but, no such power has been exercised by the Crown.[8]

In India, Parliament by law can impose martial law in any part of the country in case of grave insurrection and provide for indemnity of acts of persons in the maintenance or restoration of order in any area where martial law was in force, validate any sentence passed, punishment inflicted, forfeiture ordered or any other act done under martial law.[9] Under the Constitutional provision, protection is provided not only to military officers but also to civil officers for any act done during the martial law in the maintenance or restoration of order.[10]

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[1]Webster, p. 901
[2]Chambers, p. 591
[3]Anderson, p. 663
[4]Wharton, p. 641
[5]Stroud, Vol. 2, p. 1563
[6]Dicey, p. 291
[7]Dunner, p. 338
[8]Basu (Vol. 2) (Fourth edn.); p. 297
[9]Art. 34 and Basu, Vol. 2, p. 299
[10]Basu, Vol. 2, p. 299

MATTER(S) OF PUBLIC INTEREST

Matters concerning public interest raised in a legislature; such a matter can be raised in the House only on a motion made with the consent of the Chair.[1]

(For details *see* under Motion)

[1]Rule 184

MATTERS SUB JUDICE

A matter before a Court or under consideration or not yet decided;[1] a matter under judicial consideration or still debatable;[2] a matter under advisement;[3] matters awaiting judicial decision which are not referred to in debate as a general principle of parliamentary procedure.[4]

In British Parliament, matters awaiting or under adjudication in a criminal or civil court or court martial or a coroner's court cannot be referred to in any debate, question, supplementary question or a motion to avoid any proceeding which might be prejudicial to a case awaiting or undergoing trial. However, the Chair has discretion to allow reference in respect of cases before civil courts in certain circumstances.[5] However, the *sub judice* rule does not apply to Bills as Parliament has the right to legislate on any matter.[6] The rule of *sub judice* was codified for the first time by a resolution of the House of Commons on 23rd July, 1963. The interpretation of the rule, however, lies with the Chair.[7]

In Indian Parliament too, any matter which is under adjudication by a Court of law having jurisdiction in any part of India cannot be raised in the House in any form such as questions, adjournment motions, motions, resolutions or cut motions.[8] Avoiding discussion on matters pending adjudication before courts of law is a self-imposed restriction by Parliament in order to allow the courts to function uninfluenced by anything said outside the ambit of trial. However, care has to be taken that primary right of freedom of speech is not unduly curtailed.[9] Discussion on a matter which is *sub judice* is held out of order. However, a matter is not treated as *sub judice* until legal proceedings have actually started. A matter does not become *sub judice* if a writ petition on that matter for admission is pending before a Court.[10]

The *sub judice* rule is extended to matters pending before any statutory tribunal or authority performing any judicial or quasi-judicial function or any Commission or Court of Inquiry. However, the Speaker may admit a question in case it refers to matters concerned with procedure, subject or stage of inquiry and is not likely to prejudice the consideration of the matter by the tribunal.[11] However, privilege matters and legislation are the rights of Parliament

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[1]Webster, p. 1452
[2]Oxford, p. 1283
[3]Anderson, p. 983
[4]Wilding & Laundy, p. 729
[5]May, p. 302
[6]*Ibid,* p. 333
[7]Wilding & Laundy, p. 729
[8]Rules, 41(2) xviii 58(vii) 186(viii) 173(v) 210(viii)
[9]Kaul & Shakdher, p. 1066
[10]*Ibid,* p. 1066
[11]Rule 41(2) (xxii) etc.

and the rule of *sub judice* does not apply to them.[12] The rule of *sub judice* applies only in regard to specific issues before the court and does not relate to the entire gamut of the matter.[13]

In 1968 a Committee of Presiding Officers under the Chairmanship of Shri V.S. Page, the then Chairman of Maharashtra Legislative Council, recommended that the rule of *sub judice* should have application only during the period when the matter is under active consideration of a court of law or court martial. That would mean as under:—

(a) In criminal cases	—	From the time charge-sheet is filed till judgement is delivered.
(b) In court martial	—	From the time charges are preferred till the charges are confirmed.
(c) In civil suits	—	From the time issues are framed till judgement is delivered.
(d) In writ petitions	—	From the time they are admitted till orders are passed.
(e) Injunction petitions	—	From the time they are admitted till orders are passed.
(f) Appeals	—	From the time the appeal is admitted till judgement is delivered.

[12]Kaul & Shakdher, p. 1068
[13]*Ibid,* p. 1070

MATTER(S) OF URGENT PUBLIC IMPORTANCE

Urgent matters which require the immediate intervention of the House. In the House of Commons, a matter of urgent public importance, if it occurs during a sitting of the House, can be raised at once in spite of the interruption of the debate or other proceedings (except when a division is in progress). A complaint on such a matter is entertained by the House as soon as it is raised; but if complaint is made in committee, the Chairman reports progress and the Speaker resumes the Chair. If the matter does not require the immediate intervention of the House, leave will be refused.[1]

In the Indian Parliament, a member can draw the attention of the House to a matter of urgent public importance through various methods such as adjournment motion, short duration discussion, calling attention and special mention etc. Amember, desirous to raise a matter through short duration discussion, is required to give notice in writing to the Secretary-General specifying clearly and precisely the points on which he wishes the discussion to be raise. The notice is required to be accompanied by an explanatory note stating reasons for raising discussion on the matter in question, and has to be supported by the signatures of at least two other Members.[2] The Speaker may call for such other information from the Member who has given the notice and also from the Minister concerned, as he may consider necessary. If the Speaker is satisfied that the matter sought to be raised is urgent and of sufficient importance to be raised in the House at an early date, he admits the notice. In case an early opportunity is otherwise available for the discussion of the matter in question, the Speaker may disallow the notice.[3]

A member, with the prior permission of the Speaker, can also call the attention of a Minister to a matter of urgent public importance and request the Minister to make a statement thereon. As in the case of short duration discussion, a member is required to give a notice in writing to the Secretary-General, specifying precisely the subject on which he wishes the Minister to make a statement. The subject admitted by the Speaker is brought before the House at the earliest available date and not more than five members who have given prior notice on that subject can ask clarificatory questions on the statement made by a Minister. Where the number of such members is more than five, a ballot is held to determine the five names who can ask clarificatory questions.[4]

Similarly, matters can also be raised through special mentions popularly known as matters under rule 377. In this case also, member is required to give notice specifying the text of the subject to be raised in the House.[5]

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[1]May, pp. 313-314
[2]Rule 193
[3]rule 194
[4]Rule 197
[5]Rule 377

MEMBERS

(i) Absence from Sittings of the House

Absence of members of either House of Parliament from the sittings generally on the formal granting of leave of absence by the House. In the House of Commons, seeking leave of absence is not necessary for a member in the ordinary course of business. However, leave is granted to official delegations and the Speaker for oficial visits.[1] In the House of Lords, Sessional Committee on Leave of Absence and Lords' Expenses grants leave of absence to its members.[2]

In India, if a member of either House of Parliament remains absent from all sittings of the House for a period of sixty days without permission of the House, his seat may be declared vacant.[3] Applications of Members of Lok Sabha seeking leave of absence are referred to Committee on Absence of Members from the Sittings of the House appointed by the House. There is no such Committee in Rajya Sabha; the applications of the members are read out in the House by the Chair for taking the pleasure of the House.[4]

(Also *see* under "Leave of Absence" and "Committee on Absence of Members from the Sittings of the House").

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[1]May, p. 180
[2]*Ibdi*, p. 179
[3]Art. 101(4)
[4]Rule 243 (Lok Sabha) and Rule 214 (Rajya Sabha)

MEMBERS

(ii) Contingent Notice by

In Parliament, notices given by members which can be taken up on the conclusion of business on which they are contingent.[1]

In the House of Commons, contingent motion to Government order is put down under the heading 'Orders of the Day and Notices of Motions' in the Order Paper and it is printed immediately below the Government Order. The order book indicating the future business of the Session includes questions, motions and orders along with their Contingent motions.[2]

In the Indian Parliament, notice of a motion, resolution or Bill may be given by a Member who desires it to be taken up on conclusion of other business on which that motion is contingent. If such a notice is admitted by the Speaker, it is included in the List of Business under the heading 'Contingent' notice of a motion, resolution or Bill as the case may be.[3]

Contingent notices are generally given by a Minister in respect of Appropriation Bills which Government intends to get passed the same day immediately after the relevant demands for grants are passed by the House.

If the debate on a Government Bill is adjourned *sine die* on a motion adopted by the House, further discussion of that Bill is included under the heading 'Contingent Notice of Bill' in the List of Business for the day on which the motion for resumption of the adjourned debate thereon is to be adopted by the House.[4]

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[1]Handbook , para 39(14), p. 70
[2]May, p. 218
[3]Rule 333
[4]Kaul & Shakdher, p. 908

MEMBERS

(iii) Death of

In U.K., one or both Houses adjorn on the occasion of the death of a distinguished present or past member or death of a member in the precincts as a mark of respect to the deceased.[1]

In India, too, it is customary to make obituary reference in the House on the passing away of sitting and former members. The item is taken up during the Government Business and is accorded top priority. The Speaker makes the obituary reference and members stand in silence for a short while as a mark of respect to the deceased;[2] the present practice is to adjourn the House if a sitting member dies in Delhi, while the House is in session.

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[1]May, p. 250
[2]Kaul & Shakdher, pp. 419, 421

MEMBER

(iv) Independent

Not connected with any political party or organisation[1]; a person who acts (in politics etc.) independently of any party.[2]

A member of a Legislature who owes no allegiance to any political party.[3]

In England, 'independent' at one time meant independent of the King or the Court supporters and, during the 18th century, of the Government; there were independents within a party in the second half of 19th century; only in 1915 for the first time an avowed independent (Pamberton Billing) was elected to the House; independent members are either those who obtained their seats without the aid of any party organisation or those who leave their party to become independent after being elected.[4]

In India, an elected member of a legislature who has been elected as such otherwise than as a candidate set up by any political party; an independent member loses his membership of the House if he joins any political party after his election to the House[5]; groups formed by independent members are recognised as such by the Speaker.[6]

(Also *see* Members: Unattached)

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[1]Webster, p. 741
[2]Oxford, p. 618
[3]Wilding & Laundy, p. 312
[4]*Ibid*
[5]Paragraph 2(2) of the Tenth Schedule of Constitution
[6]Kaul & Shakdher, 4th edn. pp. 359-360

MEMBERS

(v) Intimidation of

The attempt to influence a member of Parliament in his conduct by threats;[1] publishing statements impugning the conduct of a Member threatening him with further exposure, publishing posters containing threats, sending a letter to Members threatening them that to vote for a particular bill would be regarded as a treasonable act, summoning a Member to a disciplinary hearing of his trade union etc. are acts of intimidation.[2]

In British Parliament as well as in Indian Parliament, intimidation of a Member with a view to influencing him in his parliamentary conduct is a breach of privilege of the House and is punishable by it.[3]

(vi) Molestation of

Intentional annoyance or interference caused to Members of Parliament while in the execution of their duties.

In British Parliament, molestation of members of either House while attending the House or coming to or going from it constitutes a breach of privilege and a punishable offence; challenging Members to fight on account of their behaviour in the House or any Committee thereof, writing letters to Members taking notice of speeches said to have been made by them in the House and threatening to contradict them from the gallery, sending insulting letters to Members about their conduct in Parliament, writing letters to them threatenting with the possibility of a trial at some future time for asking a question in the House, threatening to inflict pecuniary loss upon Members on account of their conduct in Parliament, inciting readers of a newspaper to telephone Members and complain of questions given notices of by them or calling in a newspaper for the arrest of Members amounts to molestation of Members.[4]

In India, molestation of a Member of Parliament in the execution of his duties as a member or while he is attending the House or when he is coming to, or going from, the House or on account of his conduct in Parliament is a breach of privilege and contempt of the House and is punishable as such. Similarly, harassment and ill-treatment of members while coming to or returning after attending the session of the House or a Committee meeting, assaulting members within the precincts of the House, using insulting or abusive language against members within the precincts of the House, challenging members to

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[1]May, p. 123
[2]May, pp. 123-124
[3]May, pp. 123-124 and Kaul & Shakdher, p. 287
[4]May, pp. 122, 158-59

fight on account of their behaviour in the House or any Committee thereof, sending insulting letters to members about their conduct in Parliament, threatening them with pecuniary loss on account of their conduct in Parliament and intimidating and causing obstruction to them in discharge of their duties as members by an outsider in the precincts of the House amount to molestation of the members[5].

(vii) Naming of

A procedure under which the Speaker of a legislature punishes a member for grossly disorderly conduct or for disregarding the authority of the Chair.[6]

In the House of Commons, a member is named by the Speaker for (i) grossly disorderly conduct, (ii) disregarding the authority of the Chair, (iii) persistently or wilfully obstructing the business of the House by abusing the rules of the House or otherwise. When a Member is thus named by the Speaker, a motion is moved and put forthwith, 'That Mr._____ be suspended from the service of the House'.

When a member is named by the Chairman to a Committee of the whole House, the Chairman forthwith suspends the proceedings of the Committee and reports the matter to the Speaker. Thereafter a motion is moved for the suspension of the Member and the Speaker forthwith puts the question as if the offence had been committed in the House itself. The suspension of the Member named continues on the first occasion for five sitting days; on the second occasion it lasts for twenty sitting days; on a subsequent occasion until the House orders, the termination of suspension or in default of such order, for the remainder of the session.[7]

The practice of naming a Member was first introduced in the House of Commons in U.K. in 1641 by Speaker Lenthall.[8]

In the Lok Sabha, the Speaker names a Member who disregards the authority of the Chair or in some other way abuses the rules of the House by persistently and wilfully obstructing the proceedings of the House. He does so to draw the attention of the House to the grossly disorderly conduct of the member. The Speaker rises and says, "I name Shri ..... for disregarding the authority of the Chair." When a member is so 'named' by the Speaker, a motion is moved forthwith that the concerned member may be suspended from the service of the House for a specified period not exceeding the remainder of the Session. A member thus suspended shall forthwith withdraw from the precincts of the House.[9]

However, the House may, at any time on a motion being made, resolve that such suspension be terminated.

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[5]Kaul & Shakdher, pp. 285-286
[6]May, 397
[7]May, pp. 397-398
[8]Wilding & Laundy, p. 484
[9]Rule 374

(viii) Reflections on

Speeches and writings casting discredit on Members of the Legislature for their conduct as Members constitute a breach of privilege.[10]

In the House of Commons, reflections on its Members are 'high violation' of the rights and privileges of the House; these are analogous to molestation of Members. However, in order to constitute a breach of privilege a libel must concern the character or conduct of the Member in that capacity. Examples of reflections are; imputations against Members of corruption in the execution of their duties; publishing placards reflecting on the conduct of certain Members as 'inhuman' and 'degrading'; reflections on the motives of a Member or a group of Members and so on.

Besides actionable slander, contemptuous insults, gross calumny or foul epithets by word of mouth which are not actionable under common law are also contempts punishable by the House.[11]

In the Indian Parliament too, speeches and writings reflecting on Members, the House or its Committees are a breach of privilege and contempt of the House; to constitute a breach of privilege the reflections should relate to the character or conduct of the Member as a Member of Parliament.[12]

Parliament can punish contempts arising out of libels which may not be actionable under the civil or criminal law.

However, speeches or writings containing vague charges against Members or criticising their Parliamentary conduct in a strong language particularly in the heat of a public controversy, without imputing any *mala fides* are not treated by the House as a contempt or breach of privilege. Similarly, defamatory words against a particular section of the House or against a particular party in the House are not treated as constituting a contempt of the House. It is also considered inconsistent with the dignity of the House to take any serious notice or action in the case of every defamatory statement; the House also may not necessarily take note of defamatory statements made by irresponsible people.

Statements made in courts or in writ petitions or affidavits filed in courts are also not immune from action for breach of privilege.[13]

(ix) Roll of

A register in which newly elected Members of Parliament sign, after making and subscribing the oath or affirmation and before taking their seats for the first time in the House.[14]

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[10]May, p. 122

[11]May, pp. 122-124

[12]Kaul & Shakdher, pp. 278-279

[13]Kaul & Shakdher, pp. 278, 279, 280

[14]Handbook, p. 81

In the British Parliament it is known as Test Roll; it is a Roll of parchment folded into the shape of a book, headed by the oath or affirmation which the Member has taken or made.[15]

Each newly elected Member or peer takes or makes oath or affirmation, and then signs the Test Roll. Thereafter he is introduced to the Speaker by the Clerk of the House; he then takes his seat in the House.[16]

In the Indian Parliament, the Roll of Members is to be signed by every Member in the presence of the Secretary-General before taking his seat.[17]

It is in the form of a register which is kept on the Table of the House whenever required; otherwise it is kept in the custody of an officer of the House.

(x) Seating of

In the House of Commons, no place is allotted to any member, but by custom the Treasury bench is occupied by the Government and the front bench on either side is reserved for the leading members of the Opposition. Senior members who are frequently attending in one place are allowed to occupy it as a matter of courtesy.[18]

In the House of Lords, Government and its supporters sit on the right of the Speaker and the Opposition parties on his left.

Members not attached to a particular party sit on the cross benches.[19]

In India the seating of members is determined by the Speaker/Chairman.

(xi) Summons to

A call or order by the President or the Crown to the Members of Parliament to meet at a specified time and place.

In England, the Queen appoints the time and place of meeting and also at the commencement of every session she declares to both Houses the causes of summons, by a speech delivered to them in the House of Lords by herself in person or by the Commissioners appointed by her. Until she has done this, neither House can proceed with any business; but the causes of summons, as declared from the throne, do not bind Parliament to consider them alone, or to proceed at once to the consideration of any of them. A new Parliament is summoned in pursuance of a proclamation issued by the Queen with the advice of the Privy Council. This proclamation which also dissolves the old Parliament, orders the issue of writs by the Lord Chancellor and appoints a day and place for the meeting of the new Parliament. The Representation of the People Act, 1918 [Section 21(3)] provides that the

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[15]May, p. 243
[16]*Ibid,* pp. 243 & 436
[17]Rule 6
[18]May, pp. 220-221
[19]Rule 4 (Lok Sabha) Rule 4 (Rajya Sabha)

interval between the date of proclamation and the meeting of Parliament must be not less than 20 clear days.[20]

In India, the President summons each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.[21]

Likewise in the States, the Governor summons the House or each House of the Legislature of the State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next sitting.[22]

In Lok Sabha, order of the President regarding summoning of the House is notified in the Gazette of India and simultaneously published in Lok Sabha Bulletin.

The Secretary-General issues summons to members individually specifying the date, time and place for a Session of the House. When the Session is called at short notice or emergently, summons may not be issued to each member separately but an announcement of the date and place of the session shall be published in the Gazette and made in the media. Members are informed by telegram.[23]

(xii) Suspension of

A form of punishment inflicted by a Legislative House on its members for specific offences such as persistent and wilful obstruction, disregard of the authority of the Chair etc.[24]; a member is suspended from the service of the House for a specific period.

In the House of Commons, standing orders specify the offences which incur the punishment of suspension; the House can also under its power of enforcing discipline among its members, impose this punishment at its discretion.[25]

When a Member persists in disorderly conduct or conducts himself in a grossly disorderly manner, the Speaker can order him to withdraw from the House forthwith. If he does not immediately obey, he may be named by the Speaker,[26] when the Speaker expresses his intention to name a member, the Leader of the House moves that the member be suspended from the service of the House; this motion is passed without amendment, adjournment or debate.[27]

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[20]May, pp. 58, 59 and 272
[21]Art. 85(1)
[22]Art. 174(1)
[23]Rule 3
[24]May, p. 140
[25]*Ibid,* p. 140
[26]*Ibid,* p. 395
[27]Wilding & Laundy, p. 484

The normal period of suspension is five sitting days on the first occasion and on the second occasion for twenty sitting days and on any subsequent occasion for the remainder of the session unless the House terminates the suspension.[28]

A member suspended from the service of the House does not forfeit his salary during the period of his suspension[29]; he is also not exempted from serving on any Committee for the consideration of a private bill to which he was appointed before his suspension.[30]

A member of Lok Sabha who disregards the authority of the Chair or abuses the rules of the House by persistently and wilfully obstructing its business is suspended by the Speaker. Under the Rule of the House, the Speaker, first, names such Member; then, a motion is made by the Parliamentary Affairs Minister or any other member that the Member be suspended from the service of the House; thereupon the Speaker forthwith puts the question to the House for its approval; when the House approves the motion, the Member stands suspended.[31]

The period of suspension does not exceed the remainder of the session; the House may pass a resolution and terminate the suspension at any time.[32]

A Member suspended under this Rule is required to withdraw from the precincts of the House.[33]

A member suspended from service of the House cannot enter the Chamber, Inner Lobby and Galleries; he also stands suspended from sittings of Parliamentary Committees of which he may be a member. No item is put down in the List of Business in his name. No notice tabled by him is acceptable during the period of his suspension. He cannot vote at elections to Committees held during the period of his suspension. He does not forfeit his salary during his suspension. He is entitled to daily allowance, unless suspended for remainder of the session.

(xiii) Unattached

Not connected with any particular group, institution etc.; independent[34]; a member of an Indian Legislature so designated by the Speaker.

Independent members of Indian Parliament were shown in the list of members as unattached; a lone member of a political party was also treated as unattached.[35]

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[28]May, p. 398
[29]*Ibid,* p. 22
[30]*Ibid,* p. 399
[31]Rule 374
[32]*Ibid*
[33]*Ibid*
[34] Webster, p. 1581
[35]Kaul & Shakdher, 4th Edn., p. 358

With the coming into effect of the Constitution (Fifty-second Amendment) Act, 1985, the term 'independent' acquired a definite legal connotation in the context of defection by and the resultant disqualification of a member, only those members who contested as independents are shown as independents; even the lone member belonging to a political party will be shown as belonging to that party which set him up as a candidate in the election; it is done so to satisfy the requirement of tenth schedule of the Constitution.

Now, only member(s) elected on a party ticket and expelled subsequently by that party is declared as unattached by the Speaker[36]; it is done for the purpose of their functioning in the House, allotment of seats, freedom from party whip, etc.[37]

(Also *see* Member: Independent)

(xiv) Withdrawal from House

A form of punishment meted out to a member of a Legislature who violates the Rules of the House.

In the House of Commons, the Speaker or the Chairman orders a member who transgresses the rules of debate or otherwise conducts himself in a disorderly manner to withdraw from the House; the member is repeatedly warned before being asked to withdraw. When a member persists in disorderly conduct or conducts himself in a grossly disorderly manner, the Speaker is empowered to order him to withdraw from the House for the remainder of the sitting; if a Member who has been ordered to withdraw from the House does not immediately obey, the Speaker or Chairman may either direct the Serjeant-at-Arms to remove him, or name the Member to the House.[38]

In Lok Sabha, the Speaker directs any Member whose conduct is, in his opinion, grossly disorderly to withdraw immediately from the House; a Member so ordered to withdraw will have to do so forthwith and will absent himself during the remainder of the day's sittings.[39]

If a Member disregards the authority of the Speaker or the person who is presiding or abuses the rules of the House by persistently and wilfully obstructing the business of the House, the Speaker, or the person presiding, may name the Member. If a Member is so named, a motion for his Suspension from the service of the House for a period not exceeding the remainder of the Session is normally moved by the Minister of Parliamentary Affairs. On adoption of such motion, the Member is suspended accordingly from the

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[36] *Ibid,* p. 358

[37] Lok Sabha Bulletin, Part II, 14 Jan. 1991, p. 2

[38] May, p. 394

[39] Rule 373

service of the House; suspension may be terminated on a motion made by any Member and adopted by the House.[40]

(xv) Membership, Disqualifications for

Constitutional or statutory rules which make a person unfit or unqualified to be chosen as member of a Legislature; also those which make a member unfit for being its member subsequent to his election.[41]

In England, the disqualifications for membership of the two Houses are different and are governed by separate statutes. In the House of Lords, aliens, infants, bankrupts, persons convicted of treason and felony are disqualified. Members are also disqualified by a resolution of the House; however, it does not disqualify the member permanently.[42] The disqualification of women has been partially removed by the enactment of the Life Peerages Act, 1958.[43] The categories of persons disqualified for membership of the House of Commons are; aliens who have not been naturalised, persons under twenty-one, lunatics or idiots, Peers of England, Scotland, Great Britain and the United Kingdom, bankrupts, persons convicted of treason, persons who are detained for more than a year for any offence, persons who are implicated in corrupt practices at elections, clergy etc.[44]

In the Indian Parliament, no person can be a member of both Houses, or a member both of Parliament and of a House of the Legislature of a State. He can be a Member of only one House.[45] The categories of persons disqualified for being chosen as and for being a member of either House of Parliament are; persons holding any office of profit under the Union as well as the State Government, persons of unsound mind, undischarged insolvents, persons who are not citizens of India, or those who have acquired the citizenship of a foreign state, persons who have been convicted of certain offences, or found guilty of a corrupt practice or disloyalty to the State, a person who has a contract subsisting with the Government for the supply of goods to or for the execution of any works undertaken by that Government; a person who has failed to lodge the account of election expenses within the time and the manner required by law etc.[46] also a member of a House belonging to any political party, who has voluntarily given up his membership of that party or has voted of abstained from voting in the House contrary to any direction issued by that party; if an independent member elected as such joins any political party after such election, he would be disqualified; similarly,

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[40]Kaul & Shakdher, Rule 374, pp. 121 & 308
[41]Art. 102
[42]May, pp. 40-42
[43]Basu, p. 562 (Vol. 2)
[44]May, pp. 40-44
[45]Art. 101 (1) (2)
[46]Arts. 101 & 102 and the Representation of the People Act, 1951; Sections 8, 8A, 9, 9A and 10A

a nominated member who joins any political party after six months of his taking his seat in the House is disqualified for being a member of the House.[47]

The Election Commission of India has the power to remove any disqualification except the one caused by resort to corrupt practices, or reduce the period of disqualification.[48]

The maximum period of disqualification is six years.[49]

[47]Constitution of India, Tenth Schedule, Clauses 2 and 4
[48]Section 11 of the Representation of the People Act, 1951
[49]*Ibid.,* 8A

MIGRATION

A change of abode;[1] migration used in article 7 of the Constitution of India embraces two conceptions: (1) going from one place to another, and (2) the intention to make the destination a place of abode or residence in future; it has the notion of transferance of allegiance from the country of departure to the country of adoption;[2] migration means coming to India with the intention of residing here permanently.[3]

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[1]Chambers, p. 610
[2]Badruz Zaman *V.* the State A.I.R. 1951, All. 16, 17
[3]Shrimati Sanno Devi *V.* Mangal Sain, A.I.R. 1961, S.C. 810

MINISTER

A person appointed by the head of a Government to take charge of some department of State;[1] person administering department of State;[2] and responsible head of a department of State affairs.[3]

In U.K., Ministers are chosen by the Prime Minister and appointed by the Crown on his advice. Prime Minister selects Ministers for his Cabinet. The main categories of Ministers are; Minister of the Crown, Minister of State and Parliamentary Secretary; every Minister is fully responsible for the work of his department. The total number of Ministers under the Ministers of the Crown Act, 1975 does not exceed 83.[4]

In India, Ministers are appointed by the President and Governors of the States on the advice of the Prime Minister and the Chief Ministers respectively;[5] hold office during the pleasure of the President or Governor;[6] a Minister enters his office on taking the oath of office and secrecy;[7] if a Minister is not a member of either House of Parliament or State legislature for six months, he will cease to be a Minister;[8] salaries and allowances of Ministers are governed by the law passed by Parliament and the State Legislature;[9] a Minister is not individually responsible to Lok Sabha but the Council[10] of Ministers is collectively responsible to Lok Sabha.

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[1]Webster, p. 937
[2]Oxford, p. 771
[3]Chambers, p. 613
[4]Wilding & Laundy, pp. 473-474 and May, p. 54
[5]Arts. 75(1) & 164(1)
[6]Arts. 75(2) & 164(1)
[7]Art. 75(4)
[8]Art. 75(5)
[9]Art. 75(6)
[10]Kaul & Shakdher, p. 687

MINORITIES

Racial, religious, national or political groups smaller than and differing from the larger, controlling group of which it is a part;[1] any community which is numerically less than 50% of the population of the State concerned.[2] The Constitution of India recognises two categories of minorities, *viz.,* religious minorities and linguistic minorities; have the fundamental right to establish and administer educational institutions of their choice and to conserve the district language, script or culture of their own.[3] When the property of an educational institution established and administered by a minority is compulsorily acquired, the amount of compensation fixed would be such as would not restrict or abrogate this right.[4]

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[1]Webster, p. 938
[2]D.A.V. College *V.* State of Punjab (11), 1971 S.C. 137
[3]Arts. 29 & 30
[4]Art. 30(1A)

MONEY BILL

A Bill which contains only provisions dealing with the imposition, repeal, remission, alteration or regulation of taxation etc.[1]

In U.K., a Money Bill is a public Bill which imposes charges upon the Consolidated Fund or on moneys provided by Parliament; the Bill of aids and supplies is distinguished from the Money Bill; a Finance Bill is not necessarily a Money Bill as it may and often contains other subjects; the Speaker certifies a Bill to be a Money Bill and this certificate is conclusive for all practical purposes and may not be questioned in a Court of Law.[2]

In India, the Speaker endorses certificate on Money Bill;[3] it cannot be referred to Joint Committee,[4] cannot be introduced in the Council of States;[5] on a Bill being introduced in the Council or at a subsequent stage if an objection is taken that the Bill is a Money Bill, the Chairman shall, if he holds the objection valid, direct the termination of further proceedings of the Bill. If the Chairman is doubtful regarding the validity of the objection, he shall refer the matter to the Speaker whose decision on the matter shall be final.[6]

A Money Bill contains only provisions dealing with all or any matters, namely (a) the imposition, abolition, remission, alteration, or regulation of any tax; (b) the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligation undertaken or to be undertaken by the Government of India; (c) the custody of the Consolidated Fund or Contingency Fund of India; the payment of moneys into or the withdrawal of moneys from such Fund; (d) the appropriation of moneys out of Consolidated Fund of India; (e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure; (f) the receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of accounts of the Union or of a State; or (g) any matter incidental to any of the matters specified in sub-clauses (a) to (f);[7] the Council of States can make recommendations only which are not binding on the House of the People; the Council cannot detain a Money Bill for more than fourteen days.[8]

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[1]May, p. 806
[2]*Ibid*, pp. 806-807
[3]Rule 96
[4]Rule 74
[5]Art. 109(1)
[6]Rule 186(7)(8) (Rajya Sabha)
[7]Arts. 110(1) and 199(1)
[8]Art. 109

MOTION

Moving, change of place[1]; the act or process of moving[2]; an application for a rule or order, made *viva voce* to a court or judge[3]; an occassional application to a court in the progress of a cause.[4]

A proposal made in the House of a Legislature to elicit its decision on a subject[5]; every question to be decided by the House must be proposed by a member in the form of a motion; the motion is made by a member of the House and a question on it is put by the Chair. Thereupon the decision of the House is obtained[6]. Motions are usually expressed in the affirmative.[7]

In the House of Commons, certain matters cannot be brought before the House in the form of a motion. They are: (i) matters awaiting judicial decision; (ii) matters already decided during the same session; (iii) matters already appointed for consideration by the House.[8]

A motion may be moved by one of the Members in whose name it stands; but a motion standing in the name of a Minister may be moved by any other Minister.[9] A member who was moved a motion can withdraw it only by leave of the House.[10]

In the Indian Parliament, discussion on a matter of general public interest can be raised only on a motion made with the consent of the Speaker.[11] Some of the conditions governing the admissibility of a motion are: it shall raise substantially one definite issue; it shall be restricted to a matter of recent occurrence; it shall not raise a question of privilege; it shall not revive discussion of a matter which has been discussed in the same Session; it shall not anticipate discussion of a matter which is likely to be discussed in the same Session; it shall not relate to any matter which is under adjudication by a court of law; it shall not refer to the conduct of persons except in their public capacity[12]; it shall not ordinarily relate to matters which are under consideration of a Parliamentary Committee; it shall not relate to a matter which is not primarily the concern of the Government of India etc.

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[1]Oxford, p. 788
[2]Webster, p. 960
[3]Anderson, p. 691
[4]Wharton, p. 673
[5]Wilding & Laundy, p. 481
[6]May, p. 328
[7]Abraham & Hawtrey, p. 122
[8]May, pp. 332-334
[9]*Ibid,* p. 337
[10]*Ibid*, p. 338
[11]Rule 184
[12]Rule 186

The motion is moved by the Member is whose name it stands in the List of Business[13]; the mover has the right of reply.[14] A motion once moved, can be withdrawn only by leave of the House[15]; only the mover can ask for the withdrawal of his motion.[16]

(For details of different kinds of motions, *see* under the respective headings).

(i) Ancillary Motion

Motion made in connection with the various stages of a Bill etc.[17]

In the House of Commons, it is dependent on an order of the day.[18] This motion depends upon or relates to another substantive motion moved in the House. It has no meaning by itself and cannot state the decision of the House without reference to the original motion or the debate going on in the House.[19]

In the Indian Parliament, such motions are recognised by the Practice of the House as the regular way of proceeding with various kinds of business. Such motion may be—(i) "that the Bill be taken into consideration" (ii) "that the Bill be passed" or "Bill be referred to a Select Committee".[20] The ancillary motion may not be in connection with a Bill such as "that the House agrees with the report of a Committee."

(ii) Anticipatory Motion

A motion which anticipates a matter previously appointed for consideration in the House; such a motion is not allowed.[21]

The general rule is that a matter must not be anticipated if it is contained in a more effective form of proceeding than the one by which it is sought to be anticipated.[22]

In the House of Commons, a substantive motion is considered more effective than the motion for adjournment of the House or amendment; a bill more effective than a motion and so on; however, the matter may be anticipated if it is contained in an equally or less effective form. Also, in determining whether a discussion would be out of order on the ground of anticipation, the Speaker considers the possibility of the matter anticipated being brought before the House within a reasonable time.[23]

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[13]Kaul & Shakdher, p. 675
[14]Rule 358(3)
[15]Rule 339(1)
[16]Kaul & Shakdher, p. 667
[17]Kaul & Shakdher, p. 663
[18]May, 328
[19]Handbook, p. 75
[20]Kaul & Shakdher, p. 663
[21]Kaul & Shakdher, p. 510
[22]May, p. 334
[23]*Ibid,* P. 335

In Lok Sabha, a Member seeking to raise discussion on any matter of which notice has already been given by another Member or Minister is not permitted to do so on the ground of anticipation. However, in determining whether a notice is out of order on the the ground of anticipation, the probability of the matter being brought before the House within a reasonable time is taken into consideration by the Speaker.[24] For example, an amendment to a resolution anticipating a later resolution of which notice has been given prior to the amendment is not in order; a resolution relating to a matter already before the House in the form of a Private Member's Bill is also out of order on the ground of anticipation; amendments to the motion of thanks on the President's address relating to a matter on which a resolution has been put down for discussion after a few days are inadmissible for the same reason; likewise, questions by way of clarification or any sort of discussion on a statement made by a Minister are not permitted on a subject that is likely to be discussed shortly on some other motion.[25]

(iii) Dilatory Motion

A motion which is intended to have a postponing or indefinitely delaying effect on debate[26]; it seeks to put off further consideration of the business in hand for the time being[27]; Motions for the adjournment of a debate, or of the House during any debate, or in Committee that the Chairman do report progress, or do leave the Chair, are dilatory motions.[28]

In House of Commons, if the Motion "that this House do now adjourn" or in Committee "that the Chairman do leave the Chair," is moved and carried, the subject under discussion is shelved or debate postponed[29]; if Speaker/ Chairman thanks that dilatory motion is an abuse of the rules of the House, he either refuses to accept or puts the question forthwith without debate, debate is confined to the matter of such a motion *i.e.* the reasons why the House should or should not adjourn;[30] it is a superseding motion and must be disposed of before the debate on the original question can be resumed; it cannot be amended and lapses at the moment of interruption of business at the end of the day without question being put;[31] a member who moved or seconded it cannot move or second similar motion during the same debate.[32]

In the Indian Parliament, at any stage of a Bill or debate, a motion that the debate on the Bill be adjourned may be moved with the consent of the Speaker[33]; if the Speaker is of the opinion that a motion for adjournment of debate is an abuse of rules, he may either forthwith put the question or

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[24]Rule 343 and Kaul and Shakdher, pp. 909-910
[25]Kaul & Shakdher, p. 910
[26]Wilding & Laundy, p. 205
[27]Abraham & Hawtrey, p. 86
[28]May, pp. 340-41
[29]Wilding & Laundy, p. 205
[30]Abraham & Hawtrey, p. 86
[31]Wilding & Laundy, p. 205
[32]Abraham & Hawtrey, p. 86
[33]Rule 109

decline to propose the question;[34] amendment seeking postponement of discussion on a Bill or its reference to a Select Committee are not of dilatory nature if their is not to delay passage of the Bill but to "Kill" the Bill.[35]

(iv) No-Confidence Motion

A motion expressing want of confidence in Government; it is moved by a member or leader of Opposition.

In British Parliament, it is known as vote of censure; usually moved by the leader of the Opposition to express lack of confidence in the Government;[36] whenever the Opposition wishes to move a motion censuring the Government's policy in a particular sphere, the Government has to find time for its discussion. A whole day's sitting or more is allotted for ' full dress' debate. If the motion is carried, it results in the fall of the Government.[37] Interrupting the normal course of business, the Government invariably finds an early day for discussing the motion as it poses a direct challenge to its authority.[38]

In India, a motion expressing want of confidence in the Council of Ministers can be moved only in Lok Sabha (House of the People)[39]. Such a motion is usually moved by a Member of Opposition. It need not set out any ground or charges on which it is based. The mover has to ask for leave of the House to move the same when called by the Speaker.[40] Written notice of the motion has to be given by 10.00 hrs. on the day on which leave is to be sought.[41]

If the Speaker holds that the motion is in order, he calls upon the members in favour of leave being granted to rise in their places; and if not less than 50 members rise, the Speaker declares that the leave is granted. The motion has to be taken up for discussion within 10 days from the day on which leave is granted by the House. If less than 50 members rise, the Speaker declares that the member does not have the leave of the House.[42] The member can withdraw the motion after the leave had been granted only with the permission of the House. Notice of No-confidence motion can also be withdrawn by a member by sending a written intimation to that effect before the item is actually taken up in the House.[43] When leave is granted, the Government cannot bring a substantive motion on a policy matter till No-Confidence Motion is disposed of.[44]

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[34]Kaul & Shakdher, p. 583
[35]*Ibid*, p. 583
[36]Abraham & Hawtrey, p. 223
[37]Wilding & Laundy, p. 775
[38]May, p. 280
[39]Art. 75(3)
[40]Rule 198(1) (a)
[41]Rule 198(1)(b)
[42]Rule 198(2)
[43]Kaul & Shakdher, p. 690
[44]*Ibid*, p. 691

The Speaker allots a day or days for discussion on No-Confidence Motion considering the state of business in the House.[45] Time for discussion may also be allotted by the House on the recommendation of Business Advisory Committee. For completing the discussion within the allotted time, Speaker may prescribe time limit on speeches.[46] Normally, the Prime Minister replies to charges levelled against Government. The mover of the motion has the right to reply.[47] On conclusion of the debate, the Speaker immediately puts every question necessary to determine the decision of the House on the motion.[48] If the motion is carried, it implies loss of confidence and the Government has to resign.[49]

(v) No-Day-Yet-Named Motion

A motion admitted by the Speaker but no date fixed for discussion thereon.

In British Parliament, no motion or question is accepted for a date more than a month ahead; but a notice of a question or motion can be given by a Lord without fixing a definite date and such a motion is called 'No-Day-Yet-Named Motion'. The debate on such a motion starts after the question for such a motion is proposed by the Lord Speaker.[50]

In Indian Parliament too, when notice of a motion is admitted by the Speaker but no date is fixed for discussion, it is notified as a 'No-Day-Yet-Named Motion' in the Bulletin.[51] In cases when notices on the same subject are received from the Government as well as from a Private Member, the Government motion is admitted and Private Member's motion is disallowed. Such motions are placed before the Business Advisory Committee which selects the motions for discussion according to urgency and importance of the subject matter thereof.[52]

(vi) Subsidiary Motion

A motion dependent upon a substantive motion or emerging from some proceedings in the House.[53]

In the House of Commons, subsidiary motions are of three types; (i) ancillary motions; dependent on an order of the day, such as the motion that a Bill be now read a second time or that the House agrees with the report of the Committee; (ii) motions made for the purpose of superseding questions such as motions for adjournment of debate; and (iii) motions dependent on other motions such as amendment.[54]

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[45]Rule 198(3)
[46]Rule 198(5)
[47]Kaul & Shakdher, p. 692
[48]Rule 198(4)
[49]Kaul & Shakdher, pp. 686-687
[50]May, p. 431
[51]Rule 189
[52]Kaul & Shakdher, pp. 674-675
[53]Wilding & Laundy, p. 730
[54]May, pp. 328-329

In Indian Parliament, subsidiary motions depend upon or relate to other motions or follow upon some proceedings in the House. They by themselves, have no meaning and are not capable of stating the decision of the House without reference to the original motions or proceedings of the House.[55]

They are divided into three categories: (i) Ancillary motions: recognised by the practice of the House as the regular way of proceedings with various kinds of business such as, "that the Bill be taken into consideration", or that "the Bill be passed"; (ii) Superseding motions: moved in the course of debate on another question and seek to supersede that question. In relation to the motion for taking into consideration a Bill, a superseding motion may ask for recommittal of the Bill to the Select or Joint Committee or its recirculation to elicit further opinion thereon or adjournment of the debate on a Bill; (iii) Amendment: moved in the course of debate on another motion which interposes a new process of question and decision between the main question and its decision. Amendment may be to the clause of a Bill, to a resolution or to a motion or to an amendment to clause of a Bill, resolution or motion.[56]

(vii) Superseding

Motion, though independent in form, but moved in the course of debate on another question and seeks to supersede that question.[57] For example, in relation to a motion for taking into consideration a Bill, a superseding motion may ask for recommittal of the Bill to the select or joint Committee or its recirculation to elicit further opinion thereon or adjournment of debate on as Bill *sine die* or to some future date.[58] Such motions may be moved by any member who rises to speak on the question before the House.

All dilatory motions come under this class because, if carried, they supersede the original question and must be disposed of before the debate on the original question can be resumed.[59]

(viii) Substantive Motion

Self-contained motion; drafted in such a way as to be capable of expressing a decision of the House.[60]

In the House of Commons, certain matters cannot be debated except upon a substantive motion. Some of these are: conduct of the sovereign, the heir to the throne or other members of the Royal family, a Governor-General of an independent territory, the Lord Chancellor, the Speaker, the Chairman of ways and Means, Members if either House of Parliament and Judges of the superior Courts of the United Kingdom, including persons holding the positions of a judge; also no charge of a personal character can be raised except on a substantive motion.[61]

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[55]Direction 41 (2) (iii)
[56]Direction 41 (2) (c)
[57]Direction 41 (2)
[58]Kaul & Shakdher, p 663
[59]Wilding & Laundy, p. 732
[60]May, pp. 332-333
[61]May, p. 336

In India, motions for election of the Speaker and the Deputy Speaker, motion of thanks on the President's Address, motion for adjournment on a matter of urgent public importance, resolutions, motions for raising discussion on a matter of general public interest, motion of no-confidence in the Council of Ministers, resolutions for removal of Speaker/Deputy Speaker and motion declaring the seat of a member vacant where leave of absence is not agreed to by the House, are examples of substantive motions moved in Lok Sabha.[62]

Motions "that the policy or situation or statement or any other matter be taken into consideration" are not, strictly speaking, susbstantive motions as they are not put to vote of the House.[63] The conduct of persons in high authority can only be discussed on a substantive motion drawn in proper terms.[64] All resolutions are substantive motions.[65] On occasions, though rare, the House may, by a substantive motion, evolve procedure to meet a situation not specifically provided for in the Rules.[66] The mover of a substantive motion has the right of reply.[67] When leave to the moving of a motion of no-confidence in the Council of Ministers has been granted, no substantive motion on policy matters is to be brought by the Government till the disposal of motion of no-confidence.[68]

(ix) Substitute Motion

A motion moved in substitution of the original motion for taking into consideration a policy or situation or statement or any other matter; although capable of expressing an opinion by itself, it is not a substantive motion as it depends on the original motion.[69]

Being in the nature of an amendment to the original motion, it is discussed alongwith the original motion; only the substitute motion is put to the vote of the House at the end of the debate.[70]

Substitute motions are put to the vote of the House in the following order:

(1) motions expressing disapproval of the policy or action of Government referred to in the original motion;

(2) motions making suggestions;

(3) motions expressing approval of the policy or action of Government referred to in the original motion.

The Speaker can give priority to the motion expressing approval of Govt. policy or action in the light of Consensus in the House.[71]

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[62]Rules 7, 8, 17, 56, 170, 184, 198, 200 and 328, Art. 101(4)
[63]Rule 342
[64]Rule 352(v)
[65]Direction 41(2)(i)
[66]Kaul & Shakdher, p. 658
[67]Rule 358(3)
[68]*Lok Sabha Debates*, 25.7.66, c. 230; 26.7.66, c. 457; 27.7.66, c. 777
[69]Kaul & Shakdher, p. 661; Dir. 41(2) (ii)
[70]*Ibid,* pp.661-662
[71]*Ibid,* p. 662

(x) Motion of Thanks

A formal resolution adopted by both Houses of Parliament expressing thanks to the Head of the State for his address to the Houses assembled together.

In U.K., it is called Address in reply to Queen's speech; it is a single resolution expressing thanks to the sovereign "for the most gracious speech addressed to both Houses of Parliament". The address is moved and seconded in each House by two members selected by the Government.[72]

After the address has been agreed to, it is presented to Her Majesty; it may be presented by the whole House or in the case of the Lords 'by the Lords with white staves' and in the case of the Commons, by such Members of the House as one of Her Majesty's most honourable privy council, or of Her Majesty's household.[73] The Sovereign, then answers to the address by Parliament which is usually of a formal character.[74] When addresses are presented by the whole House, the answer of Her Majesty is reported to the House of Lords by the Lord Chancellor and to the House of Commons by the Speaker; if the address has been presented in the ordinary way the answer is reported in the Lords by the Lord Chamberlain and in the Commons by one of the royal household who appears at the bar and reads the answer.[75]

Motion for the address is debated in the House; amendments are moved and division is allowed on the same.[76]

In the Houses of Indian Parliament, the motion of Thanks is taken up for discussion a few days after the delivery of the Address by the President. The motion is moved by a Member and seconded by another member both of whom are selected by the Prime Minister.[77]

The scope of discussion on the Address is very wide and it embraces functioning of entire administration; members are free to speak on any national or international problem. Even matters not specifically mentioned in the Address are brought into discussion through amendments to Motion of Thanks. The only limitations are that members cannot refer to matter, which are not the direct responsibility of Central Government and that the name of President cannot be brought in during the debate since the Government and not the President is responsible for the contents of the Address.[78]

After the Prime Minister who usually replies to the debate, the amendments are disposed of and the Motion of Thanks is put to the House. After the Motion is carried, it is conveyed to the President direct by the Speaker through a letter. The president acknowledges receipt of the Motion through a message to the Speaker. On receipt of the message, the Speaker reads it out to the House.[79]

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[72] *Ibid*, p. 246
[73] *Ibid*, p. 247
[74] *Ibid*, p. 247
[75] *Ibid*, p. 639
[76] *Ibid*, p. 636
[77] Kaul & Shakdher, pp. 206-207
[78] Kaul & Shakdher, pp. 206-207
[79] *Ibid*, p. 209

N

NATIONAL HUMAN RIGHTS COMMISSION

Human Rights are the fundamental rights especially those believed to belong to an individual and in whose exercize a government may not interfere.[1] Human rights means the rights relating to life, liberty, equality and dignity of the individual guaranted by the Constitution or embodied in International Covenant and enforceable by Courts in India.[2]

India is a party to the International Covenant on civil and political rights and the International Covenant on economic, social and cultural rights. The rights embodied in this Convenant stand substantially protected by the Constitution and especially by the provisions in part III and part IV of the Constitution dealing with fundamental rights and the Directive principles of State policy respectively.

The National Human Rights Commission is a body created under an act of Parliament for examining and investigating the questions and complaints relating to violation of human rights, as also the negligence of any public servant in preventing such violation.

The Commission consists of a chairperson and four members to be appointed by the President of India on the basis of recommendation of a Committee comprising the Prime Minister; Speaker of Lok Sabha, Union Home Minister, Leader of Opposition, Lok Sabha, and Leader of Opposition, Rajya Sabha, and the Deputy Chairperson, Rajya Sabha.[3]

The Chairperson has to be a retired Chief Justice of the Supreme Court and one member has to be a sitting or a retired judge of the Supreme Court. The second Member has to be the present or retired Chief Justice of a High Court; another two members are to be appointed from amongst persons having knowledge of or experience in matters relating to human rights.[4]

The Chairpersons of the National Commission for Minorities, the National Commission for the Scheduled Castes and Scheduled Tribes and the National Commission for Women are deemed to be members of the Commission for the purpose of discharging the functions of the commission.[5]

The term of office of the Chairperson and the members is 5 years or upto 70 years of age whichever is earlier. A member is eligible for

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[1]American Heritage Dictionary, p. 931
[2]Section 2(d) of the Protection of Human Rights Act, 1993
[3]Section 3(4) of the Protection of Human Rights Act, 1993
[4]Section 3(2) (a)(b)(c) and (d) of the Act
[5]Section 3(3) of the Protection of Human Rights Act, 1993

reappointment for another term of 5 years but he cannot hold the office after he attains the age of 70 years.[6]

The Chairperson or any member of Commission can be removed from office by order of the President on the ground of proved misbehaviour or incapacity.[7]

The functions of the Commission include:

(1) to inquire, *suo moto* or on a complaint of violation of human rights or abatement thereof; or negligence in the prevention of such violation.

(2) to intervene in any proceeding involving any allegation of violation of human rights pending before a court.

(3) to visit any jail or any other institution where persons are detained or lodged for treatment, reformation or protection, to study the living conditions of the inmates and make recommendations thereon.

(4) to review the safegaurds provided under the constitution or any law for the protection of human rights and recommend measures for their effective implementation.

(5) to review the factors, that inhibit the enjoyment of human rights and recommend appropriate remedial measures.

(6) to study treaties and other international instruments on human rights and make recommendation for their effective implementation and undertake and promote research in the field of human rights.

(7) to spread human rights literacy among various sections of the society and to encourage the efforts of NGOs working in the field of human rights.[8]

The Commission, while inquiring into complaints under this act, have all the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908[9] and can utilze the services of any officer or investigating agency of the Govt. for conducting any investigation pertaining to the inquiry of case under the Act.[10]

The Commission submits its annual report to the Central Government and to the concerned State Government which is laid by the concerned Govt. before the Parliament or the State Legislative Assembly as the case may be. The same procedure is followed regarding the special reports on any special and urgent matter.[11]

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[6]Section 6 of the Protection of Human Rights Act, 1993
[7]Section 5 of the Protection of Human Rights Act, 1993
[8]Section 12 of the Protection of Human Rights Act, 1993
[9]Section 13 of the Protection of Human Rights Act, 1993
[10]Section 14 of the Protection of Human Rights Act, 1993
[11]Section 20(1) & (2) of the Act

NOTICE (S)

Intimation[1]; information, announcement[2]; a knowledge of circumstances that ought to induce suspicion or belief, as well as direct information.[3]

In a Legislature, the intimation by a member in writing of his intention to make a motion etc.

In the House of Commons, a member is usually required to give notice of his intention to move motions, amendments etc.[4]; however, in certain situations, notice is not required; for example, motions made immediately after second reading of a Bill for referring the same to a Select Committee, Joint Committee or a special Standing Committee[5] however, the House of Commons can waive the requirement of notice for a substantive motion if it is moved under the sanction of the Chair.[6]

In the Indian Parliament, every matter proposed to be raised in the House by a Member, whether it is in the form of a question, resolution, motion, Bill, an amendment, or otherwise, requires notice. The Speaker does not allow any matter to be raised on the floor of the House unless he has received the requisite notice thereof.[7] Notices are required to be given on standard printed forms. The practice of giving notices on scraps of paper or written in pencil has been deprecated by the Speaker.[8] Every notice required under the Rules has to be given in writing addressed to the Secretary-General, signed by the Member giving notice and handed in at the Parliamentary Notice Office within the notified hours.[9] In exceptional cases, a notice 'may be given telegraphically. Such notices have, however, to be immediately confirmed in writing. If no confirmation is recieved, the telegraphic notice is held out of order.[10]

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[1]Oxford, p. 823
[2]Webster, p. 1004
[3]Anderson, p. 714
[4]Wilding & Laundy, p. 501
[5]May, p. 330
[6]*Ibid,* p. 331
[7]Kaul & Shakdher, p. 905
[8]L.A. Deb, 9.4.1934, p. 3423
[9]Rule 332
[10]Kaul & Shakdher, p. 905

O

OATH

Solemn appeal to God or revered or dreaded person or object in witness that statement is true or promise shall be kept[1]; a ritualistic declaration, based on an appeal to God or to some revered person or object, that one will speak the truth, keep a promise, remain faithful etc,[2]; calling God to witness the truth of what is said[3]; an appeal to God to witness the truth of a statement.[4]

A solemn statement in the name of God made by the member of a Legislature before he takes his seat in the House affirming his allegiance to the Constitution and his resolve to uphold the sovereignty and integrity of the country, etc.[5]

On the opening of a new Parliament, Members of both Houses of British Parliament take oath. In the House of Lords, the Lord Chancellor takes oath first, followed by the Archbishops, the Party Leaders and the occupants of the front benches; thereafter the remaining Lords present take oath.[6] The commons take oath after the electon of the Speaker. The first to take oath is the Speaker himself who while doing so stands upon the upper step of the Chair; They take the oath in order of seniority first the father of the House, then the Members of the Cabinet and shadow cabinet, other privy councillors, other Minister and other members.[7] The person taking oath holds the New Testament or, in the case of a Jew, or Muslim the Old Testament or Koran in his uplifted hand and says the words "I swear by Almighty God that....." followed by the words of the oath prescribed by law.[8]

The members of both Houses are required to take oath also in the event of the demise of the Crown.[9]

A peer in the House of Lords who votes in the House without taking oath is subject to a penalty of 500 pounds; a member of the House of Commons is also subject to the same penalty and his seat is vacated in the same manner as if he were dead. However. Acts of Indemnity relieve them from the consequences of neglect to take oath.[10]

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[1]Oxfored p. 829
[2]Webster, p. 1011
[3]Anderson p. 720
[4]Wharton, p. 707
[5]IIIrd Schedule of the Constitution of India
[6]May, p. 234
[7]*Ibid,* p. 241
[8]*Ibid,* p. 242
[9]*Ibid*, p. 241
[10]*Ibid*, p.242

In the Indian Parliament, every member of either House of Parliament before taking his seat has to make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation in the prescribed from.[11] The form of oath to be made by a Member of Parliament is as follows:—

> "I, A.B., having been elected (or nominated) a member of the Council of States (or the House of the People) do swear in the name of God that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter."[12]

A member who has not already made and subscribed an oath or affirmation can do so at the commencement of a sitting of the House, or at any other time of the sitting of the House, as the Speaker may direct, on any other day after giving previous notice in writing to the Secretary-General.[13]

Oath or affirmation is made by the President and Vice-President of India, Governor of a State. Speaker *pro tem,* Ministers of the Union, Ministers of a State Government Members of State Legislatures, Judges of the Supreme Court and High Courts, Comptroller and Auditor-General of India, candidates for election to Parliament and State Legislatures.[14] Parliamentary Committees may administer oath or affirmation to a witness summoned by them in the following form:—

> "I, A.B., swear in the name of God/solemnly affirm that the evidence which I shall give in this case shall be true, that I will conceal nothing, and that no part of my evidence shall be false."[15]

If a Member sits or votes in the House without taking oath/affirmation, he is subject to a penalty of Rupees five hundred in respect of each such day.[16]

(*See* also "Affirmation")

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[11]Art. 99
[12]Constitution of India, 3rd Schedule (III) B
[13]Rule 5
[14]Arts. 60, 69, 75(4), 84(a), 124(6), 148(2), 159, 164(3), 173(a), 188 and 219
[15]Rule 272
[16]Kaul & Shakdher, p. 366

OBLIGATION

Binding power of a contract, promise, moral responsibility[1]; a moral or legal bond[2]; binding agreement enforceable under legal penalty[3]; legal duty or liability, something which binds a person to do or not to do an act[4]; a bond containing a penalty[5]; can arise out of contract or otherwise. The obligations of the Govt. pass on to successive governments; all obligations of the Government of the Dominion of India have passed on to the Govt. of India from the commencement of the Constitution of India; likewise, the obligations of the Government of each Governor's Province passed on to the Government of the corresponding State.[6]

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[1]Webster, p. 1012
[2]Chamber, p. 666
[3]Oxford, p. 831
[4]Anderson, pp. 722, 723
[5]Stroud, Vol. 3, p. 1763
[6]Art. 294(a) (b)

OFFENCE

The act of breaking law; sin, crime, transgression[1]; affront, assault, crime[2]; misdemeanour, illegal act[3]; transgression of law, act of wickedness[4]; an act made punishable under Indian Penal Code or under any special or local law with imprisonment for a term of six months or upwards with or without fine.[5]

[1]Webster, p. 1018
[2]Chamber, p. 671
[3]Oxford, p. 838
[4]Anderson, p. 726
[5]Explanation 40, I.P.C., 1860, Vol. 1, p. 23

OFFICE

A position imposing certain duties or giving a right to exercise an employment[1]; an employment either judicial, municipal, civil, military or ecclesiastical;[2] a public station or employment, conferred by the appointment of government, and embracing the ideas of tenure, duration, emolument and duties.[3] In U.K., an office is a right to exercise a public or private employment, and to take the fees and emoluments thereunto belonging.[4] In India, equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.[5] Office means a position or place to which certain duties are attached.[6] The word 'office' does not necessarily imply that it must have an existence apart from the person who may hold it.[7] But to constitute an office, there must be some (public) duty to be performed.[8]

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[1]Chambers, p. 672
[2]Wharton, p. 711
[3]Anderson, p. 727
[4]Stroud, Vol. 2, p. 1774
[5]Art, 16(1)
[6]M. Ramappa V. Sangappa, AIR, 1958 SC 937
[7]Devrao *Vs.* Keshav, AIR 1958, Bom. 314, p. 318
[8]GA Monterio *Vs.* State of Ajmer, AIR 1957, S.C. 13, p. 16

OFFICE OF PROFIT

An employment with fees and emoluments attached to it; hence, where pay or salary is attached to an office, it immediately and indisputably makes the office an "Office of Profit".[1]

Holders of Office of Profit under the Government, other than an office declared by Parliament by law not to disqualify its holder, are disqualified from being chosen as, or for being, Members of a Legislature[2]; the object is to secure the independence of the members of the Legislature from the Executive and reduce the risk of conflict between duty and self-interest.[3] Further holding of certain offices is considered incompatible with membership of legislatures due to physical impossibility of a person attending in two places or heavy duties being attached to those offices.[4]

In U.K., all persons employed either whole or part-time in the Civil Service are disqualified for the membership of the House of Commons as they are holders of Office of Profit. Armed Forces, Police, Judicial office, public bodies like the Boards of Nationalised Industries, Commissions, Tribunals and other statutory bodies are all treated as Office of Profit as their members are appointed by the Crown or that their holding is incompatible with membership of the House of Commons.[5]

Besides, Ambassadors, High Commissioners, Chairmen of public boards, council etc., Election and Boundary Commissioners etc. are also treated as holders of Office of Profit and hence are disqualified for the membership of the House of Commons[6]; however, holding an office of profit under the crown or any other office or place, does not disqualify except as provided by the House of Commons, Disqualification Act, 1975.[7]

In India, a person holding an office of profit under the Union Government or the Government of a State cannot be chosen or cannot remain a member of either House of Parliament or the Legislature of a State[8]; however, Minister either for the Union or for a State shall not be deemed to hold an Office of Profit for the purpose of disqualification of membership of the House.[9]

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[1]Kaul & Shakdher, p. 76

[2]Art. 102

[3]Kaul & Shakdher, p. 71

[4]Third Report (JCOP-2LS), p. 1

[5]House of Commons, Disqualification Act, 1975.

[6]May, pp. 44—46

[7]*Ibid* p.44

[8]Art. 102(1)(a) and 191 (1)(a)

[9]Art. 102(2)

The tests for determining whether an office in question is an office under a government and whether it is an Office of Profit are as follows:—

(i) whether the Govt. makes the appointment;

(ii) whether the Govt. has the right to remove or dismiss the holder;

(iii) whether the Govt. pays the remuneration;

(iv) whether the holder performs the functions for the Government;

(v) whether the Govt. exercises any control over the performance of those functions.[10]

To bring a case under Office of Profit three requirements are to be met: (i) there should be a permanent office; (ii) income and profit should accrue from that office; and (iii) the person should be holding that office [10(a)].

Besides, the Joint Committee on Offices of Profit (7 LS) have recommended following additional criteria to test when an office in question is an Office of Profit[11]:

(i) whether the holder draws any remuneration, like sitting fee, honorarium, salary, etc., *i.e.* any remuneration other than the compensatory allowance, as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959;

[The principle thus is that if a member draws not more than what is required to cover the actual out-of-pocket expenses and does not give him pecuniary benefit it will not act as a disqualification.]

(ii) whether the body in which an office is held, exercises executive, legislative or judicial powers or confers powers of disbursement of funds, allotment of lands, issue of licences, etc. or gives powers of appointment, grant of scholarships, etc,; and

(iii) whether the body in which an office is held wields influence or power by way of patronage.

If reply to any of the above criteria is in affirmative then the offices in question will entail disqualification.

An office held under the local or other authority is not treated as an office of profit;[12] however, directorship of statutory Corporations/Public Undertakings, as a class, should be a disqualification as the Board of Directors by and large enjoy executive and financial powers.[13] Vice Chancellors, Members of Parliament and State Legislatures, Assessors, Teachers in grant-in-aid schools etc. are not holders of Office of Profit; similarly, a person who undertakes to

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[10]Kaul & Shakdher, p. 72 and Shivamurthy Swami Inamdar *Vs.* Veerabhadrappa Veerappa (Supreme Court of India—E.L.R., Vol. XLIV, p. 119).

[10(a)]PDT Achary, p. 17 and Ravinder Kumar Nayak *Vs.* Collector, Mayurbhuj AIR 1999 SC 1120

[11]Tenth Report (JCOP-7LS), p. 22

[12]Kaul & Shakdher, pp. 77 & 78

[13]Second Report (JCOP-5thLS), p. 3 & Kaul & Shakdher p. 79

execute some work under the Public Works Department is not a holder of Office of Profit.[14]

The Parliament and the Legislature of a State have the power to declare by law that an Office of Profit does not disqualify its holder for being chosen as or for being a Member of the House.[15]

(*See* also "Committee on Office of Profit")

[14]Kaul & Shakdher, pp. 81, 82, 83
[15]Arts. 102 and 191

OFFICIAL GAZETTE

An official newspaper containing list of Government appointments, legal notices, despatches etc.[1]

In U.K., one of the three official journals (London, Edinburgh, Belfast) issued by authority twice a week with lists of Government appointments, bankrupts and other public notices.[2] By various Acts (especially the Documentary Evidence Acts, 1868, 1882 & 1895) publication in the Gazette is made evidence of the matter so published.[3]

In India, the "Official Gazette" or "Gazette" means the Gazette of India or the official gazette of a State.[4]

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[1]Chambers, p. 399.
[2]Oxford, p. 507.
[3]Wharton, p. 448.
[4]Rule 2(1) (Lok Sabha) Rule 2(1) (Rajya Sabha) and General Clauses Act, Sec. 3(39)

OPPOSITION

A minority political party serving as a check on the party in power[1]; the party that opposes the Ministry or existing administration[2]; has a recognised position in the system of Parliamentary Government.[3]

In the House of Commons, the Opposition is accorded statutory recognition; the largest minority party which is prepared, in the event of the resignation of the Government, to assume office; the Leader of the Opposition and some of his colleagues form shadow cabinet (for details *see* under that heading); the opposition has the right to exercise the initiative in selecting the subject of debate on certain days.[4]

In India, the Opposition parties in Parliament are recognised by the Speaker/Chairman and his decision in the matter is final in their respective Houses[5]; the conditions of recognition are that they should have a distinct ideology and programme of work, an organisation both inside and outside the House and a strength of one-tenth of the total membership of the House[6]; a party which does not have a strength of one-tenth, is recognised as a Parliamentary Group provided the membership is atleast 30 in the Lok Sabha and 15 in the Rajya Sabha.[7] The Opposition in the Lok Sabha has got official recognition as a Party thrice in the past *viz.*, 1969-1970, 1977-80[8] and then in December 1989 when the Speaker recognised the Leader of Congress (I) Party as the Leader of Opposition in Lok Sabha in terms of Sec. 2 of the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977.[9]

Leaders of the Opposition in the Lok Sabha and the Rajya Sabha are given salary and certain other facilities and amenities under the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977.[10]

(*Also* see under "Leader of Opposition")

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[1]Webster, p. 1029
[2]Chambers, p. 678
[3]May, p. 211
[4]*Ibid.* p. 211 & 212
[5]Direction 120 (Lok Sabha) & Direction 24 (Rajya Sabha)
[6]Kaul & Shakdher, p. 355
[7]Direction 121 (ii) (Lok Sabha) & Direction 24(ii) Rajya Sabha
[8]Kaul & Shakdher, p. 143
[9]Lok Sabha Bulletin Pt-I, Dec. 20, 1989
[10]*Ibid.* p. 144

ORDINANCE

Direction or command of an authoritative nature.[1]

A State Paper operative as a fundamental law, yet not describable as either a Constitution or a statute.[2]

In U.K., the Crown does not enjoy independent power of legislation.[3] In India, however, the President of the Union and the Governors of the States have legislative power to promulgate Ordinances, such power is co-extensive with the legislative competence of Parliament.[4]

An Ordinance for whole or any part of the Indian Union may be promulgated by the President when either House of Parliament is not in session; Ordinance has the same force and effect as an Act of Parliament; required to be laid before Parliament; ceases to operate at the expiration of six weeks from the reassembly of Parliament or if before the period, resolutions disapproving it are passed by the Houses, upon the passing of the second of those resolutions; can be withdrawn by the President at any time; before cessation of operation can be replaced by an Act of Parliament; a statement explaining circumstances that necessitated promulgation of an Ordinance is laid on the Table of the House at the time of introduction of the Bill seeking to replace the Ordinance.

In the States in India, Ordinance is promulgated by the Governor when the Legislative Assembly of the State is not in session, or where there is a Legislative Council in a State, both the Houses of the Legislature are not in session; shall not be promulgated by Governor without instructions from the President if Ordinance contains provisions of a Bill that would require previous sanction of President for introduction or which he would have deemed it necessary to reserve for President's consideration after its passing by legislature,[5] Provisions regarding operation, cessation etc. of an Ordinance promulgated by the President apply *mutatis mutandis* to an Ordinance promulgated by the Governor.

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[1]Webster, p. 1032 and Oxford. p. 854
[2]Anderson, p. 738
[3]Basu, 6th edn. Vol. G., p. 186
[4]Arts. 123 & 213
[5]Arts. 123 & 213

ORDER—MAINTENANCE OF

Preservation of order by Presiding Officers in the Houses of Parliament during their sittings.

In the House of Commons, the Speaker and Chairman are entrusted with the responsibility of maintaining order in the House and Committees respectively.[1] The Speaker asks a member violating rules of conduct and good order during a debate to withdraw from the House. If the member refuses and if his offence is serious, the Speaker "names" him.[2] A member using unparliamentary words has to withdraw his words on the direction of the Speaker. In case the member flouts Speaker's directive, the Speaker orders him to withdraw from the House or 'names' him.[3] If a member persists in irrelevance or tedious repetition, the Speaker directs him to discontinue his speech in case, the member refuses to do so, the Speaker asks him to withdraw from the House or 'names' him. A member transgressing the rules of debate or committing breach of order or decorum is called to order by the Speaker. However, when a member persists in grossly disorderly conduct, he asks the member to withdraw from the House or names him.[4] In case of grave disorder in the House, the Speaker may adjourn the House or suspend its sitting.[5]

In the House of Lords, the Speaker does not enjoy any disciplinary power and the order is maintained by the House itself. A member has a right to call an other member of the House to order or move that he should no longer be heard under the relevant standing order.[6]

In India, the Speaker and the Chairman are responsible for maintaining order in Lok Sabha and Rajya Sabha respectively.[7] If a member is irrelevant or repetitive in his speech or makes unwarranted or defamatory or unparliamentary remarks, the Speaker asks him to discontinue his speech or withdraw his remarks or orders expunction of such remarks.[8] if a member's behaviour is disorderly, the Speaker asks him to withdraw from the House. However, when a member persistently obstructs proceedings of the House or disregards authority of the Chair, the Speaker 'names' such a member for suspension. In the event of grave disorder, the Speaker and the Chairman are empowered to adjourn or suspend the sitting of the House for such time as they think fit.[9]

(Please also *see* under 'Member—naming of ' and 'Member—withdrawal from House'.)

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[1]Abraham & Hawtrey, p. 129
[2]Wilding & Laundy, p. 206
[3]Abraham & Hawtrey, p. 129
[4]May, pp. 393 & 394
[5]*Ibid,* p. 395
[6]Wilding & Laundy, p. 206
[7]Rule 378 (Lok Sabha) and Rule 259 (Rajya Sabha)
[8]Rules 353, 356 & 380 (Lok Sabha) & Rule 261 (Rajya Sabha)
[9]Rules 373, 374, 375 (Lok Sabha) & Rule 257 (Rajya Sabha)

OTHER AUTHORITIES

A constitutional term which refers to authorities other than local self government; have power to make rules, regulations etc. having the force of law, *e.g.*, a Bar Council constituted under the Indian Bar Council Act of 1926 Cochin Devaswom Board, the Income Tax Commissioner etc.[1]

[1]Basu (5th edn.), Vol. I, p. 138

P

PAIRS

Two voters on opposite sides who have an agreement to abstain from voting on a motion or for a period in a deliberative assembly.[1] In the House of Commons, a member who wishes to absent himself from the House may arrange with a member of the opposite party, who also wishes to be absent, that neither shall attend the House, or at least vote in a division, for an agreed time. These members are then said to be 'paired', each being the other's 'pair';[2] pairs neutralise their votes in any division that may take place during their absence.[3] There can be no parliamentary recognition of this practice, although it has never been condemned; conducted privately by individual members, or arranged by the Whips of the respective parties.[4]

[1]Chambers, p. 696 and Wharton, p. 725
[2]Abraham & Hawtrey, p. 134
[3]Wilding & Laundy, p. 515
[4]May, p. 357

PANEL OF CHAIRMEN

The body of members whom the Speaker nominates from among the members to preside over the sittings of the House in the absence of the Speaker and the Deputy Speaker.[1]

In British Parliament, the Panel of Chairmen is appointed to act as temporary Chairman of Committees on the request of the Chairman of Ways and Means; the Panel is appointed at the commencement of every session. It consists of not less than ten members but the Speaker can add further members to the panel during the course of the Session. The Chairmen of Standing Commitees are appointed from this panel. The panel meets occasionally under the Chairmanship of the Chairman of Ways and Means.[2]

In the Lok Sabha, at the commencement of the House or from time to time, a panel of not more than ten Chairmen is nominated by the Speaker and any one of them, in the absence of the Speaker or Deputy Speaker, may preside over the House.[3] By convention, Lady members and members from the Opposition are also nominated on the panel. Such a Chairman, while presiding over a sitting of the House, has the same powers as the Speaker and his rulings are not open to any debate or appeal. He is also free to participate fully in all discussions in the House when not presiding and take active part in his party affairs. His term of office is normally one year or until a new panel of Chairmen is nominated; the same person can be renominated from time to time.[4]

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[1]Kaul & Shakdher, p. 127
[2]May, p. 197
[3]Rule 9
[4]Kaul & Shakdher, p. 128

PAPERS LAID ON THE TABLE

Laying of Parliamentary papers or documents on the Table of both Houses of Parliament for bringing them on the record of the House.[1]

In British Parliament, papers presented to both Houses broadly fall into three categories: (i) Command Papers such as Annual Reports of certain Government Departments, reports of Royal Commissions, Green Papers, agreements with foreign States etc.; (ii) Act Papers, such as statutory instruments presented in pursuance of statutory requirements; and (iii) Returns, calling for production of papers by means of address to the Queen or order of the House. After the papers are presented, they are generally ordered by the two Houses to lay on the Table. The titles of the papers presented during the sitting of Parliament are entered in Minutes of proceedings and the votes and proceedings for the day.[2]

In Indian Parliament, papers are laid on the Table by Ministers, private Members or Secretary-General with the permission of the Speaker/Chairman in pursuance of the provisions of Constitution, Rules of Procedure and Conduct of Business or Directions by the Speaker/Chairman. Papers laid on the Table are either printed as part of the proceedings of the House or placed in Library.[3] Papers laid on the Table are considered public papers.[4] In case of the Lok Sabha, a private member desiring to lay a paper on the Table of the House has to submit a copy of it to the Speaker in advance and he can lay the paper on the Table of the House only with Speaker's permission.[5] Some of the important Parliamentary papers laid on the Table are Presidential Address. Ordinances and Proclamations, Budget and related documents, reports of authorities constituted under the Constitution, Bills passed or returned with amendments by the other House, reports of the Parliamentary Committees, Bills assented to by the President Government resolutions, Statutory Orders etc. [6] All papers laid on the Table by Ministers are examined by the Committee on Papers laid on the Table and report to the House. [7]

(Also *see* 'Committee on Papers Laid on the Table')

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[1]Handbook (Lok Sabha) p. 82 & Handbook (Rajya Sabha) p. 59
[2]May, pp. 223-226
[3]Handbook (Lok Sabha) p. 82 & Handbook (Rajya Sabha) p. 59
[4]Rule 369 (2) (Lok Sabha) & Rule 250 (Rajya Sabha)
[5]Direction 118 (1) (Lok Sabha)
[6]Kaul & Shakdher, pp. 966-970
[7]Rule 305 (B) (Lok Sabha)

PARLIAMENT—JURISDICTION AND POWERS OF

Parliament consists of the President/Sovereign and the two Houses; each of its branches has peculiar powers in connection with their joint legislative function.[1]

The British Parliament consists of the Sovereign, the House of Lords and the House of Commons. The power of Parliament is transcendent and its Acts bind every subject; no authority other than Parliament can create, amend or abrogate a statute [2]; it has authority over all matters and persons within its jurisdiction; however, this unlimited authority has been subjected to limitations imposed by the statutes or granting independence to Dominions and more recently by the European Communities Act, 1972.[3]

The legal existence of British Parliament results from the exercise of royal prerogative; the Crown is the supreme governor in spiritual, ecclesiastical as well as temporal things; all titles of honour are the gift of the Crown; the House of Commons owe their election as the representatives of the people to a Queen's writ.[4]

The Crown has the power to summon, prorogue and dissolve Parliament and direct the commencement of its proceedings. An Act or Parliament becomes law only when the Crown assents to it. The Commons can grant money only when it is required by the Crown.[5]

The House of Lords, the Upper House of British Parliament, has judicial functions also to perform; it is the Court of final appeal from other Courts of justice.[6]

The House of Commons, being the House of the chosen representatives of the people possesses the most important power vested in any branch of the legislature, namely, the right of imposing taxes upon the people and voting money for the Public Service.[7]

Each of the House has penal power by which it protects its privileges and punishes their violation; it is akin in nature and origin to the power of the Courts of justice to punish for contempts; extends to Members as well as others.

The Lords are a Court of record and as such have power not only to imprison but to impose fines.[8]

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[1]Art. 79 and May, p. 9
[2]Wilding & Laundy, p. 521
[3]May, p. 52
[4]*Ibid,* p. 11
[5]May, pp. 55-58 & 563
[6]*Ibid*, pp. 60-61
[7]*Ibid*, p. 63
[8]*Ibid*, p. 131

The Indian Parliament consists of the President, the Council of States (Rajya Sabha) and the House of the People (Lok Sabha)[9]; it does not have uncontrolled and unlimited power as the British Parliament has; functions within the bounds of a written Constitution; its legislative authority is subject to the distribution of powers between the Union and States and the justiciable fundamental rights; all laws passed by Parliament must be in conformity with the provisions of the Constitution.[10]

Nevertheless, the powers it possesses are immense. Parliament has predominance in the legislative field. It has exclusive powers to make laws with respect to any matter not enumerated in the Concurrent List or State List.[11] It has power to establish additional courts for the better administration of its laws.[12] Under certain circumstances, the Parliament can make laws with respect to a matter in the State List, whenever the Rajya Sabha, by resolution supported by a special majority, declares it necessary or expedient in the national interest to do so.[13]

While a proclamation of emergency is in operation, Parliament has power to make laws for the whole or any part of India with respect to any matter enumerated in the State List.[14] Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.[15]

Besides these powers, Parliament has also the constituent power to amend the Constitution.[16] Like the British Parliament, the Indian Parliament too enjoys penal powers to punish offenders who violate its privileges (for details *see* 'Privilege').

The Council of States has certain special powers which the House of the People does not have; (i) Parliament can assume power to make a law on a matter in the State List, if the Council of States adopts a resolution supported by two-thirds of its Members present and voting to the effect that it is necessary to do so in national interest.

(ii) Parliament can create one or more All India Services only if the Council of States adopts a resolution to this effect by a majority of two-thirds of its Members present and voting.[17] The Council of States is to subject to dissolution.

The House of the People like-wise enjoys certain special powers *vis-a-vis* the Council of States. The Council of Ministers is collectively responsible to

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[9]Art. 79
[10]Kaul & Shakdher, p. 1
[11]Art. 246, Cl. (4)
[12]Art. 247
[13]Art. 249, Kaul & Shakdher, p. 3
[14]Art. 250
[15]Art. 253
[16]Art. 368, Kaul & Shakdher, p. 5
[17]Basu, Vol. 2, 4th edn., p. 487; Arts. 249 and 312 (1)

the House of the People. Thus a No-Confidence Motion in the Council of Ministers can be moved only in the House of the People.[18] Money Bills can be introduced only in the House of the People and the Council of States cannot reject or amend it; it can only suggest amendments. Demands for grants can be voted only by the House of the People; it can make votes of credit and exceptional grants.[19]

[18]Art. 75 (3)
[19]Arts. 109, 113, 116

PARLIAMENT LIBRARY

The Library housed in the Parliament House.

The British Parliament has two libraries, one for the House of Commons and another for the Lords; the Commons Library is responsible for the provision of Research, Analysis and Information Services; & the (Lords) Library provides research, information and bibliographic services to support the legislative, deliberative and judicial functions of the House.[1]

In India, Parliament Library provides well-equipped research and reference services, maintained by LARRDI Service consisting of Library, Research and Information and Reference and Documentation Divisions. Library Division consists of Acquisition, Processing, Library and Administration and Preservation Sections; Research and Information Division provides research and information services to members and consists of Political, Economic, Educational, Legal and Parliamentary Affairs Wings while Reference and Documentation Division keeps the members informed on important developments;[1] Library Committee under the *ex-officio* chairmanship of Deputy Speaker Lok Sabha, advises the Speaker on matters concerning the Library.[3]

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[1]May, pp. 202 & 206
[2]Procedure and Practice, LARRDIS
[3]Rules of Procedure, Appendix II

PARLIAMENT: PROROGATION OF

Discontinue meetings (of Parliament etc.) without dissolving it.[1]

To end a session of (a legislative assembly, as the British Parliament).[2]

In U.K., the act by which the Queen terminates a session of Parliament. It is a royal prerogative. The prorogation is effected at the close of a Session by an announcement made in the House of Lords by the Sovereign or by Commissioners appointed by the Sovereign for that purpose. But since 1854 it has always been prorogued by Commissioners. The prorogation is to a specified date which may either be postponed or advanced by Royal Proclamation. A message is sent from the Lords Commissioners to the House of Commons requesting their attendance to hear the proclamation of prorogation. After hearing the proclamation, in the House of Lords, the Speaker, alongwith the members who have attended him at the Bar of the House of Lords, returns to the House of Commons Chamber and again reads the Speech from the throne.[3]

The effect of a prorogation is at once to suspend all business until Parliament is summoned again. Not only are the sittings ended, but all proceedings pending at the time, except impeachments by the Commons and appeals before the House of Lords, are brought to a close. Every Bill which has not passed through all its stages is required to be introduced afresh in the new Session. All Committees cease to exist on prorogation and have to be reconstituted.[4]

In India, the President has the power to terminate or prorogue a session of Parliament.[5] The President exercises his power to prorogue the House on the advice of the Prime Minister. Prorogation of the House (Lok Sabha or Rajya Sabha) may take place any time, even while the House is sitting. Usually, however, prorogation follows the adjournment of the sitting of the House *sine die*.[6] Unlike in U.K., the prorogation is not to a specified date. Pending notices other than notices of intention to move for leave to introduce a Bill shall lapse on prorogation.[7] But motions, resolutions and amendments which have already been moved and are pending in the House shall not lapse.[8] Bills pending before either House do not lapse on prorogation and are carried over to the next Session.[9] Notices of intention to move for leave to

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[1]Oxford, p. 982
[2]Webster, p. 1169
[3]Wilding & Laundy, pp. 618-619
[4]*Ibid.* and May, p. 57
[5]Art. 85(2)
[6]Kaul & Shakdher, p. 183
[7]Rule 335 (Lok Sabha) & Rule 225 (Rajya Sabha)
[8]Rule 336 (Lok Sabha)
[9]Art. 107(3)

introduce Bills also do not lapse except where any sanction or recommendation obtained under the Constitution for introduction of a Bill has ceased to be operative.[10]

Contrary to the practice in England, Committees of both the Houses and the business pending before them do not lapse on prorogation.[11]

[10]Rule 335 (Lok Sabha)
[11]Rule 284 (Lok Sabha) & Rule 226 (Rajya Sabha)

PARLIAMENT, SUMMONING OF

In U.K., Parliament is summoned in pursuance of a proclamation issued by the Queen on the advice of the Privy Council. The proclamation issued by the Queen to dissolve a Parliament contains a directive to elect a new Parliament and also specifies the date of its first meeting.[1] Similary, the proclamation issued by the Queen proroguing Parliament contains the day and place or its meeting in the new Session[2]; the meeting could also be deferred by a further proclamation proroguing it to a later day.[3]

In India, the President is empowered to summon each House of Parliament from time to time to meet at such time and place as he thinks fit but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.[4] Subject to this limit, the President has got absolute discretion to fix the time for summoning the Parliament. The President exercises this power on the recommendation of the Prime Minister or the Cabinet. He may make informal suggestions to the Prime Minister as to the more convenient date and time of summoning the Parliament but the ultimate advice in the matter rests with the Prime Minister.[5]

Lok Sabha (House of the People) after being dissolved or a session thereof prorogued has no authority to assemble by its own right unless summoned by the President.

Rajya Sabha (Council of States) is not subject to dissolution. It cannot, however, assemble, after a session thereof is prorogued, by its own right unless summoned by the President.

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[1]May, p. 231 & 232
[2]*Ibid,* p. 232
[3]*Ibid,* p. 232
[4]Art. 85(1)
[5]Kaul & Shakdher, p. 174

PARLIAMENTARY AGENT

A person employed by private persons or societies for drafting bills or managing business to be brought before Parliament.[1]

In the House of Commons he prepares and promotes private bills, conducts proceedings upon petitions against such bills; various duties and responsibilities are imposed by the orders of both Houses upon him and in both Houses rules have been laid down to be observed by him in the House upon any petition or bill.[2] His is a specialised profession, and his function is to undertake all the work involved in promoting or opposing a Private Bill and to look after the interests of his client.[3]

In India, there is no provision for private bills and Parliamentary Agents.

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[1]Chambers, p. 708
[2]May, p. 875 & 876
[3]Wilding & Laundy, p. 533

PARLIAMENTARY GROUP

A unit smaller than Parliamentary Party, formed in Parliaments where two party system does not prevail.[1]

As two Party system has been in prevalence on the whole in British Parliament, Parliamentary groups are not known to have existed there.[2]

In Indian Parliament, Parliamentary group is an association of at least 30 members having distinct ideology, programme of work and organisation. In certain cases, association of less than 30 members is also given the nomenclature of Parliamentary group for the sake of convenience without according formal recognition as such under the ordres of the Speaker. Member of different parties having different ideologies and unattached member who form an *ad hoc* group with distinctive designation were also be termed as such for the purpose of functioning in the House.[3] Recognition to a Parliamentary group is accorded by Speaker on a formal written request made by members intending to form a group and his decision is final in the matter.[4] Parliamentary groups are given certain facilities as may be deemed fit by the Speaker;[5] generally, these are; allotment of blocks of seats in the Houses allotment of room for Party work, allotment of the Central Hall and Committee Rooms for holding their meetings in connection with Parliamentary work, supply of Parliamentary or Government papers or publications on request, nomination to a Parliamentary Committee in proportion to the strength of the group, Library facilities etc.

All groups are represented on the Business Advisory Committee; Leaders of Groups are usually given preference in the selection of speakers; groups are also consulted on a matter of procedure in the House.[6]

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[1]Oxford, p. 544
[2]May, p. 210, Wilding and Laundy, p. 546
[3]Kaul & Shakdher, pp. 355, 357, 358
[4]*Ibid,* p. 359
[5]*Ibid,* pp. 360—364
[6]*Ibid,* p. 363

PARLIAMENTAY NOTICE OFFICE

An office meant for receiving the notices given by the members of a legislature (lit.). In the House of Commons, motions or notices of questions are tabled by being handed in either at the Table of the House or (more usually) to the Clerks in the Table Office.[1] In Lok Sabha, notice signed by the member must be given within office hours to be notified from time to time.[2] A similar office is also provided for the Rajya Sabha Members;[3] entry passes for the various galleries in the House are issued by PNO.

[1]May, 329
[2]Rule 332
[3]Rajya Sabha Rule 223

PARLIAMENTARY PAPERS

The papers connected with the proceedings of the House as well as those presented or furnished to the House;[1] the copies of these papers are made available to the Members as soon as they are issued.[2]

In the British Parliament, Parliamentary papers consist of papers dealing with daily business of the two Houses and papers presented to Parliament.[3] No copies of these papers are delivered to any department or placed on sale to the public until they have been made available to the members.[4]

In India, Parliamentary papers can be divided into two groups: (i) papers connected with the proceedings of the House and issued by the Secretariat, such as List of Business, Lists of Questions, Bulletins, cut motions and amendments, reports of Parliamentary Committees, debates, synopsis of debates etc.; and (ii) papers presented from outside. The House has the power to order all the documents required for its information to be laid on the Table of the House.

The Speaker in the Lok Sabha and the Chairman in the Rajya Sabha may authorise printing, publication, distribution or sale of any paper, document or report in connection with the business of the House or any paper, document or report laid on the Table or presented to the House or a Committee thereof.

If a question arises whether a paper, document or report is in connection with the business of the House or not, the question shall be referred to the Speaker whose decision shall be final.[5]

Custody of all records, documents and papers belonging to the House or its Committees or the Secretariat vests in the Secretary-General. No such records, documents or papers to be taken from the Parliament House without the permission of the Speaker.[6]

[*See* also Committee on Papers Laid on the Table]

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[1]Kaul & Shakdher, p. 988
[2]May, p. 227
[3]*Ibid,* p. 223-226
[4]*Ibid,* p. 227
[5]Rule 382(3) (Lok Sabha)
[6]Kaul & Shakdher, p. 988 and Rule 383

PARLIAMENTARY PARTY

Parliamentary Wing of an organised political party; consists exclusively of Members of Parliament.

In the House of Commons, U.K. the rules do not recognise Parties as such.[1] However, many matters such as arrangement and conduct of business etc. are based on a clear cut division between Government and Opposition, each of which is supported by a party or a combination of parties. The machinery evolved by these parties performs important functions in the working of procedure.[2]

The official Opposition Party has to be statutorily recognised. Inside the House each Party has a fairly elaborate organisation. The officers of the Party in office consist of the Chief Whip, three officers of the Household and five Lords of the Treasury with the addition of upto six Members who act as Assistant Whips; all these Whips receive salaries. All Government Whips rank as Ministers of the Crown. The Chief Opposition Whip and not more than two Assistant Opposition Whips are now paid salaries out of the Consolidated Fund. The Opposition Parties are given financial assistance from public funds in respect of their Parliamentary duties.[3]

In Indian Parliament, a Parliamentary party gets recognition on satisfying the following conditions:

(1) it should be functioning like a homogenous unit or well-knit entity;

(2) it should have a distinct ideology and programme of work whether in political, economic or social field;

(3) it should have an organisation both inside and outside the House to remain in touch with public opinion; and

(4) it should have a strength equal to the quorum fixed to constitute a sitting of the House *i.e.* one-tenth of the total membership of the House.[4]

Recognition to an association of members, groups or parties as Parliamentary party may be accorded to both Government as well as Opposition parties by the Speaker on a formal request made to him and his decision is final in the matter.[5] A political Party in Parliament which does not have one-tenth of the total membership of the House is recognised as a Parliamentary

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[1]Jennings (P) p. 24, read with May, 210 & 211

[2]May, p. 210

[3]*Ibid*, pp. 211-214

[4]Kaul & Shakdher, p. 355

[5]*Ibid*, pp. 358-359

Group provided it has atleast 30 members in the Lok Sabha and 15 Members in case of the Rajya Sabha.[6]

A recognised parliamentary party is granted some facilities which include; allotment of blocks of seats in the House in proportion to the strength of the party, allotment of a room in Parliamnet House for Parliamentary work of the party; allotment of Central Hall or Committee Room; supply of Parliamentary or Government papers or publications on specific request; nomination on Parliamentary or Government Committee, representation in Business Advisory Committee etc. Leaders of recognised Parliamentary Parties are given preference for participating in debates and are allotted seats in the front rows in the Central Hall on the occasion of President's Address etc.[7]

[6]Direction 121 (ii) (Lok Sabha) & Direction 24(ii) (Rajya Sabha)
[7]Kaul & Shakdher, pp. 360-364

PARLIAMENTARY SECRETARIES

Persons selected to assist the Ministers in their parliamentary work[1]; the Parliamentary Secretaries too are Ministers by definition.[2]

In U.K., Ministers who control major departments have one or two Parliamentary Secretaries to assist them; help their Ministers in their parliamentary work in the House; they are accessible to Members who seek information or wish to make representations or complaints and deal with many such matters; are selected by Prime Minister, in consultation with the Minister concerned and as they are not appointed by the Sovereign, they are not Ministers of Crown but junior Ministers; as junior Ministers, the Parliamentary Secretaries must accept the doctrine of collective responsibility.[3]

In India, although considered as Ministers, they are not included in the Council of Ministers.[4]

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[1]Wilding & Laundy, p. 544
[2]Rule (1) & Rule 2(1) Rajya Sabha
[3]Wilding & Laundy, p. 544
[4]Kaul & Shakdher, pp. 132, 133 (foot note 138)

PATENT ERRORS

Apparent mistakes; such errors as can be seen on the face of an instrument.

Printing or clerical errors in a Bill which can be corrected by the Presiding Officer of a Legislature.

In the House of Commons, after a Bill has been printed and circulated, only printing and clerical errors are corrected by the Speaker; in case of serious errors a corrected copy of the Bill is circulated in substitution of the first print; in minor cases, the Speaker calls attention to such errors before the second reading or at other appropriate stages.[1]

In the case of Indian Parliament, no alteration can be made in a Bill as introduced or as reported by a Select or Joint Committee except by way of an amendment adopted for the purpose; the Speaker of the House of the People or the Chairman of the Council of States has, however, power to correct any obvious printing or clerical error at any stage of the Bill; no such correction can be made if errors relate to taxation proposals.[2]

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[1]May, p. 502

[2]Kaul & Shakdher, p. 578; and Rule 95 (Lok Sabha), Rule 108 (Rajya Sabha) & Directions 32 & 33

PENDING BUSINESS

All the business of a legislature that remains undisposed at the end of a session.

In British Parliament, all proceedings pending at the time of prorogation are quashed except impeachments by the Commons and appeals before the House of Lords.[1] Similarly, except Bills classified as Private Bills, provisional order Bills and hybrid order Bills, all other Bills lapse. In the case of these three categories of Bills, a suspension order is passed by the House in respect of each Bill and the Bills are taken up in the next session. In the event of an unexpected dissolution too, by order of the new Parliament, the Private Bills as well as hybrid Bills are reintroduced and taken proforma to the stage reached before dissolution.[2]

In the Indian Parliament, on the other hand, pending business does not lapse on prorogation which does not constitute an interruption in the continuity of the life of the House.

Bills pending before either House or its Committees, motions, resolutions and amendments which have already been moved or any business pending before a Committee do not lapse on prorogation.[3]

However, on dissolution of Lok Sabha, all business pending before it or any of its Committees lapses; no part of the records of the dissolved House can be carried over and transcribed into the records or registers of the new House; even Bills passed by the Lok Sabha and pending in Rajya Sabha lapse on dissolution; on the Bills originating in Rajya Sabha which have not been passed by Lok Sabha but are still pending before Rajya Sabha, do not lapse.[4]

Some more exceptions are:—

(i) Reports of Parliamentary Committees;

(ii) Assurances by Ministers;

(iii) A Bill in respect of which the President has notified his intention to summon both Houses to a joint meeting to pass the same.[5]

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[1]May, p. 57
[2]*Ibid,* pp. 926-928
[3]Art. 107(3); Rule 284(Lok Sabha); Kaul & Shakdher, pp. 185, 186, 187
[4]Kaul & Shakdher, pp. 191, 192, Art. 107(5)
[5]*Ibid*, p. 191(Footnote 86) & Art. 108(5)

PENSION

An Allowance to one who has retired or has been disabled or reached old age or has been widowed as orphaned.[1] Under the Constitution of India, a pension of any kind payable to a person; includes retired pay, gratuity, any sum or sums payable by way of the return of subscription to a provident fund;[2] Members of Parliament too are entitled to pension provided they complete the stipulated period of membership of the House.

[1]Chambers, p. 723
[2]Art. 366(17)

PERSONAL EXPLANATION

A statement made by a Member to explain, justify or apologise for his conduct in a Legislature; personal explanation is also allowed to point out at a subsequent sitting an error in the report of his speech in the official Report of Debates.[1]

In British Parliament, personal explanation by a Member of the circumstances which have caused his resignation of an office in the Government is usually made immediately before the commencement of public business;[2] no debate is allowed; but if another Member is involved in the personal statement he is generally allowed to give his view of the matter and to say whether he accepts it or not; personal explanation not allowed when the House is in Committee.[3]

In the Lok Sabha, Member is allowed by the Speaker to make a personal explanation before the House but no debatable matter is allowed to be raised and similar provision is there in Rajya Sabha under which a member with the permission of the Chairman may make personal explanation but no debatable matter may be brought forward and no debate shall arise.[4] A minister who has resigned his office too can make a personal explanation a copy of the statement has to be forwarded to the Speaker and the Leader of the House a day in advance; no debate is allowed on such a statement.[5]

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[1]Abraham & Hawtrey, p. 144 and p. 264
[2]*Ibid*, p. 355
[3]*Ibid*, p. 355
[4]Rule 357 (Lok Sabha) and Rule 241 (Rajya Sabha)
[5]Rule 199(1)(2)(3) (Lok Sabha)

PERSONAL LIBERTY

Freedom from constraint of a person; the unrestricted enjoyment of natural rights of a person[1]; consists in the power of locomotion, of changing situation or moving one's person to whatever place one's own inclination may direct, without imprisonment or restraint unless by due couse of law[2].

In England, the right to personal liberty means in substance a person's right not to be subjected to imprisonment, arrest or physical coercion in any manner that does not admit of legal justification; secured by the strict maintenance of the principle that no man can be arrested or imprisoned except in due course of law[3]; means liberty or the rights attached to the person (Juspersonarum).

Under the Constitution of India (Art. 21), a compendious term including within its meaning all the varieties which go to make up the personal liberties of men[4]; while Aricle 19 (1) deals with particulars species or attributes of that freedom, personal liberty in Article 21 takes and comprises the residue[5]; personal liberty in Article 21 takes in the right of locomotion and to travel abroad and no person can be deprived of his right to travel except according to procedure established by law[6].

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[1]Chambers. p. 556
[2]Anderson, p. 620
[3]Dicey, pp. 207-208
[4]Gopalan *v.* State of Madras, AIR 1950, S.C. 27 pp. 110-111
[5]Kharak Singh *v.* State of U.P., AIR 1963, S.C. 1295, p. 302
[6]Satwant Singh *v.* A.P.O., New Delhi, AIR 1967, S.C. 1836, p. 44

PETITION

Formal written supplication from one or more persons to sovereign etc.[1]; a solemn, earnest supplication or request to a superior or to a person or group in authority[2]; formal written application to a superior for the exercise of his authority[3]; a supplication made by an inferior to a superior, having jurisdiction to grant redress[4]. A prayer by the members of public to Parliament for redressal of local or personal grievances, an alteration of the general law or the reconsideration of a general administrative decision etc[5].

In England, it is the inherent right of every commoner to present Petitions to the House of Commons in case of grievance and the House to receive the same[6].

Petitions are presented to the House of Commons as well as the Lords. In the Commons, Petitions are required to be written upon parchment or paper; in the Lords, petitions may be written, typed or printed on parchment or paper; a petition must be signed and at least one signature should be upon the same sheet or skin upon which it is written.

The language of the petition should be respectful and temperate; must set forth a case in which the House has jurisdiction to interfere and conclude with a prayer for such interference[7].

The petitions are presented by a member of the House to which they are addressed who is required to affix his name at the beginning; a member who has not taken oath or made affirmation cannot present a petition.

The Clerk of the House transmits all petitions after they are presented to a Minister of the Crown; the observations made by the Minister/Ministers are laid on the Table by him and ordered to be printed[8].

Any forgery or fraud in the preparation of petitions, or in the signatures attached is liable to be punished as a breach of privilege[9].

In India petitions can be presented to both Houses of Parliament as well as the State Legislatures. In Lok Sabha, the subject matter can be a Bill introduced in the House, or any matter connected with the business pending before the House or any matter of general public interest petitions are not

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[1]Oxford, p. 909
[2]Webster, p. 1094
[3]Anderson, p. 771
[4]Wharton, p. 760
[5]May, p. 809
[6]*Ibid*, p. 809
[7]*Ibid*, pp. 810—817
[8]*Ibid*, p. 817
[9]*Ibid*, p. 811

allowed on matters falling within the cognisance of a court of law having jurisdiction in any part of India or a court of inquiry or a statutory Tribunal or Commission.

The subject matter of the petition must be with the competence of the House; the language used must be respectful, decorous and temperate; it must contain a definite suggestion or grievance; should not relate to personal or individual grievance[10]. The member who presents a petition has to countersign it before presenting it in the House. Every petition shall be either in Hindi or in English. If any petition in any other Indian language is made, it shall be accompanied by a translation either in Hindi or in English, and signed by the petitioner. No debate is permitted on the presentation of a petition. The member has to give advance intimation to the Secretary-General about the petition.

Every petition after it has been presented, stands referred to the Committee on Petitions (*See* under Committee on Petitions) which will consider it and make suitable recommendations to the House[11].

[10]Kaul & Shakdher, p. 960
[11]*Ibid,* p. 963

PITH AND SUBSTANCE

A doctrine relating to the interpretation of statutes; evolved by the Privy Council, to sovle the problem of two competing Legislatures.[1]

According to this doctrine, the question whether an impugned law would relate to the subject matter within jurisdiction of one Legislature or the other is decided by the substance or the real scope of the impugned law and the subject matter to which it really relates, and not by the label the legislature has given to it.[2]

The Supreme Court has followed this doctrine in a number of cases.[3]

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[1]Gallaghar *V.* Lynm (1937) A. C. 863 (870) and Prafulla V. Bank of Commerce. A. 1947, p. 28
[2]Basu (6th edn.) Vol. C.P. 43
[3]State of Rajasthan V. V.G. Chowla, AIR 1959 SC. 544; Sajjan Singh V. State of Rajasthan, AIR 1985 SC 845

PLANNING COMMISSION

Commission is an official group of people who has been given responsibility to control something or to find out about something usually for the Govt.[1]

The Planning Commission is a non-statutory body set up by a resolution of the Government of India in March 1950, in pursuance of declared objectives to promote a rapid rise in the standard of living of the people by efficient exploitation of the resources of the country, increasing production and offering opportunities to all for employment. It is essentially an advisory body and has neither constitutional nor statutory authority. It formulates plans for the development of the country. Sectorwise working groups are set by the Commission for making recommendations on various policy matters. Advisory bodies are also set up for consulting other knowledgeable people especially non-official experts.

On the basis of the sectoral programmes formulated by various working groups, a short memorandum of the five year plan is prepared which is placed before the Cabinet and the National Development Council. Only when the plan is formulated and approved by the Cabinet and the National Development Council and the Parliament, then only it receives the necessary sanction.

The Prime Minister is the chairman of the Planning Commission. Deputy Chairman is the chief executive of the multi Member Commission which as a composite body provide guidance and advice to the subject divisions for formulation of five year plans, annual plans, state plans and for monitoring plan programmes, projects and schemes. Finance Minister and the Minister for Planning and Programme Implementation are *ex officio* members of the Commission. Deputy Chairman enjoys the status of a Cabinet Minister. He is the main link between the Central Cabinet and the State Chief Ministers on the one hand and Planning Commission on the other hand.

Members of the Commission are chosen and appointed on the basis of their wide knowledge and experience in major areas of development such as agriculture and rural economy, industry and commerce, science and technology, economics and other social sciences and education. They are allotted work in the Commission according to their own specialized areas. They enjoy the status equivalent to that of the Minister of State.

The main functions of the Planning Commission as outlined in the 1950 resolution setting up the Planning Commission are to make an assessment of the material, capital and human resources of the country and investigate the possibility of augmenting them; to formulate a plan for the most effective and

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[1]Oxford p. 241

balanced utilization of the country's resources; to indicate the factors which are tending to retard the economic development; to determine the nature of machinery for securing the successful implementation of each state of the plan; to appraise from time to time the progress achieved in the execution of plan at different stages and recommend adjustments of policy and measures and to define the stages in which the plan should be carried out and propose the allocation of resources. Another important duty of the Planning Commission is to study continuously various changes in economic and social situation and modify the plan as and when necessary.[2]

[2]Extracted from the official website of the Planning Commission

POINT OF ORDER

A procedure under which a member of a Legislature brings to the attention of the Chair what he considers a breach of order or a transgression of any written or unwritten law of the House which the Chair has not perceived;[1] it is the right of any Member to rise in his place and direct the attention of the Chair to the breach of order;[2] a Member can also ask for the guidance and assistance of the Chair regarding any obscurities in procedure.[3]

In the House of Commons, the Member who raises a point of order says 'on a point of order, Mr. Speaker' and directs the attention of the Speaker to the point complained of; the Speaker's decision on the point is final.[4]

In Indian Parliament, a Member can raise a point of order relating to the interpretation or enforcement of the Rules of Procedure or conventions or such articles of the Constitution as regulate the business of the House; it must be on a matter within the cognizance of the Speaker in case of the Lok Sabha and Chairman in case of the Rajya Sabha.[5]

A point of order may be raised only in relation to the business before the House at the moment; it cannot be raised in respect of an item after it has been disposed of; in case it relates to maintenance of order in, or arrangement of business before the House, the Speaker permits it to be raised during the interval between the termination of one item of business and the commencement of another.[6]

A point of order is not a point of privilege; it should refer to procedure and not substantive arguments on a motion etc., a point of order cannot be raised on another point of order; it cannot be raised while a division is being taken in the House or while the Speaker is speaking[7].

A member who wishes to raise a point of order has to quote the article of the Constitution, Rule, Direction or Ruling or Practice which was being violated. No debate is allowed on a point of order, but the Speaker may hear other Members too before giving his decision.[8]

A point of order cannot be raised against the decision of the Speaker in regard to admissibility of a notice.[9]

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[1]Wilding & Laundy, p. 565
[2]May, p. 396
[3]Wilding & Laundy, p. 565
[4]*Ibid,* p. 565 and May, pp. 396 & 397
[5]Kaul & Shakdher, p. 936; Rule 376(1) (Lok Sabha) & Rule 258 (Rajya Sabha)
[6]*Ibid,* p. 936; Rule 376(2) (Lok Sabha)
[7]*Ibid,* pp. 937, 938
[8]*Ibid,* pp. 938, 939; Rule 376(4) (Lok Sabha)
[9]*Idid,* p. 939

A point of order cannot be raised by a Member to ask for information or to explain his position or when a question on any motion is being put to the House or which may be hypothetical or that did not ring or were not heard.[10]

[10]Rule 376(6) (Lok Sabha)

POLITICAL AGENT

The principal Officer representing the Central Government in a territory outside India and in relation to any territory within India to which the Act or Regulation containing the expression does not extend, any officer appointed by the Central Government to exercise all or any of the powers of a political Agent under that Act or Regulation.[1]

[1]The General Clauses Act, 1897 3(43)

POLITICAL PARTY

An organized group seeking to control the personnel and policy of governments;[1] the largest mass organisation of voters in modern governments;[2] It is described as a body of men united for promoting, by their joint efforts, the national interests upon some particular principle on which they all are agreed (Edmund Burke). In modern times, it is rather a group following a leader or leaders who desire to gain control over governmental power.[3]

Parties are central to the process of interest aggregation: the bringing about of sufficient consensus on major political, economic and social questions for stable government to be possible; they serve as one channel of communication between government and governed[4]. According to Disraeli, without party, Parliamentary government is impossible.

In U.K., origins of organised political parties are relatively recent. They were first acknowledged by Burke in 1769; according to some commentators, the parties originated in Whig and Tory groups in the late seventeenth century.[5]

Government in Britain is pre-eminently party government; however, the parties are not recognised in law as being corporate bodies; hence they largely escape legal scrutiny of their internal activities;[6] but it is they which give shape and purpose to elections.[7]

The oldest national party in Britain is the Conservative and Unionist Party whose origins go back at least 300 years to Stuart times; the earlier name was Tory Party, which was changed into Conservative Party following the Reform Act of 1832; the Labour was formed on 27 February, 1900 with the purpose of securing representation of working class opinion in the House of Commons; the Liberal Party grew out of the old Whig party and its origin goes back to 1679; the minor parties with a notional following are the Communist Party of Great Britain, the Welsh Nationalist Party, the Scottish National Party etc.[8]

India too has a multi-party system. The Indian National Congress is the oldest national level party not only in India but also in the Third World; it was founded in 1885.[9] The other national level parties are the Communist Party of India (Marxist), the Bharatiya Janata Party, etc.; at the regional level, there

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[1]Chamber's Encyclopaedia, Vol. Eleven, p. 37
[2]Dunner, p. 417
[3]*Ibid*
[4]Henig, p. 3
[5]Lees and Kimber, p. 1
[6]Vernon Bogdanor (pp), p. 1
[7]Leonard, p. 30
[8]*Ibid.* pp. 35, 41, 46, 49 and 50
[9]Randal, p. 77

are parties like the All India Anna Dravida Munnetra Kazhagam (AIADMK), Asom Gana Parishad (AGP), Dravida Munnetra Kazhagam (DMK), National Conference, Telugu Desam Party etc.

Unlike in U.K., the political parties in India are registered with Election Commission.[10]

There are recognised as well as unrecognised parties; a party will be treated as recognised in a state only if,

(i) it has been engaged in political activity for a continuous period of five years; and

(ii) it has at the general election sent at least one member to the House of the People for every twenty-five members of that House or at least one member to the Legislative Assembly of that State for every thirty members;

or

the total number of valid votes secured by all the contesting candidates set up by such party at the general election in the State to the House of the People or the Legislative Assembly is not less than four per cent of the total number of valid votes polled by all the contesting candidates at such election in the State;[11] a political party treated as recognised in four or more States enjoys the status of a "National Party" throughout the whole of India; a party treated as recognised in less than four States enjoys the status of a "State Party" in the State or States in which it is a recognised political party.[12]

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[10]The Representation of the People Act, 1951 (Sec. 29A)
[11]Election Symbols (Reservation and Allotment) Order, 1968 (Para 6)
[12]*Ibid.*, Para 7

PREAMBLE

Introductory part of statute, deed etc.[1]; an introduction, especially one to a Constitution, Statute etc., stating its reason and purpose[2]; the beginning of an Act of Parliament etc. serving to portray the interests of its framers, and the mischiefs to be remedied[3]; a clause introductory to, and explanatory of, the reasons for establishing a Constitution;[4] the part of a Bill which sets out the reasons for and intended effects of the proposed legislation.[5]

In the British Parliament, a preamble is not often incorporated now in a public Bill; however, it appears in a Bill of great constitutional importance or in a Bill to give effect to international conventions.[6] The preamble, if any, of the public Bill is considered when all the clauses and schedules have been agreed to as amendments to the Bill may necessitate an alteration to the preamble; however, preamble is always a part of the Private Bill and it is considered first.[7] In the case of Private Bill the preamble has to be proved; in case the preamble is opposed, arguments and evidence upon it are heard and the question is put 'That the preamble is proved' which is resolved in the affirmative or negative; if the preamble is proved then the Bill is gone through clause by clause.[8]

In the Indian Parliament, inclusion of a preamble in a Bill is not in vogue now; it is rarely added to a Bill; at one time the Preamble was not considered to be a part of the Bill, but later a contrary view was taken. Preamble is subject to amendment like any part of the Bill;[9] after it is put to vote of the House and adopted, it stands part of the Bill.

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[1]Oxford, p. 957
[2]Webster, p. 1147
[3]Wharton. p. 787
[4]Andreson, p. 798
[5]Wilding & Laundy, p. 569
[6]May, p. 462
[7]May, p. 533 & Wilding & Laundy, p. 569
[8]May, pp. 916 & 917
[9]Kaul & Shakdher 534, 535, Rule 92 (Lok Sabha) & Rule 107 (Rajya Sabha)

PRECINCTS OF THE HOUSE

Places located within the premises of Parliament. Houses of British Parliament are accommodated in the palace of Westminster which also houses twenty-five Committee rooms, Westminster Hall and Royal Gallery used on royal and important occasions.[1] The Chambers are surrounded by galleries and connected by corridors leading through inner lobbies and Central lobbies. The galleries of the Houses provide accommodation for strangers, Press and Government officials; large area of the galleries of House of Commons is reserved for its members.[2] In the remaining accommodation of the Palace are housed rooms of Ministers, Members, Offices of Party Whips, libraries of the Houses etc.[3]

Precincts of the Houses (Lok Sabha and Rajya Sabha) means and includes the Chambers, lobbies, galleries and such other places as the Speaker/ Chairman may specify from time to time.[4] It also includes Central Hall and its lobbies, Members' waiting rooms, Committee rooms, Parliament Library, Members' Refreshment Rooms, Dining Rooms, Banquet Hall and Lok Sabha and Rajya Sabha Offices located in Parliament House, Parliament House Annexe and Parliament House Estate.[5]

A Member cannot be arrested or legal, civil or criminal process cannot be served on him within the precincts of the House without obtaining the permission of the Speaker.[6]

Inner Precincts (Of the House)

Area covered by the Chamber, Lobby and the galleries; when the House, is sitting, no stranger is permitted to the Chamber of the House. Strangers may be permitted to some portions of inner precincts of the House such as inner and outer lobbies, galleries and Central Hall under specified conditions regulated in accordance with the rules made under directions of the Speaker with the exception of the Special Box for which admission cards are issued by an order of the Secretary-General.[7]

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[1]May, p. 175
[2]*Ibid,* pp. 176 & 177
[3]*Ibid,* pp. 175 & 176
[4]Rule 2(1) (Lok Sabha) & Rule 2(1) (Rajya Sabha)
[5]Direction, 124 (Lok Sabha)
[6]Rules 232 & 233 (Lok Sabha)
[7]Kaul & Shakdher, pp. 949, 950

PRESIDENCY TOWN

Formerly, any of the three original provinces of British India (Bengal, Bombay and Madras); originally governed by President of the East India Company's holdings.[1] Also the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Calcutta, Madras or Bombay, as the case may be[2].

[1]Webster, p. 1153
[2]Sec. 3(44), General Clauses Act.

PRESIDENT

The elected head of a republic,[1] the Chief Executive of a Republic;[2] the President of the Indian Union.

The executive power of the Indian Union is vested in the President; he exercises this power either directly or through officers subordinate to him in accordance with the Constitution; the Supreme Command of the Defence forces of the Union is also vested in him.[3]

Elected by the members of an electoral college consisting of the elected members of both Houses of Parliament and of the Legislative Assemblies of the States including the Legislative Assemblies of National Capital Territory of Delhi and Union Territory of Pondicherry.[4] Election is held in accordance with the system of proportional representation; voting is by secret ballot;[5] holds office for a period of 5 years; can be removed from office by impeachment; continues to hold office until his successor enters upon his office notwithstanding the expiration of his term;[6] for election as President he must be a citizen of India and must have completed the age of 35 years and qualified for election as a member of the Lok Sabha.[7]

The President is aided and advised by a Council of Ministers; shall, in the exercise of his functions, act in accordance with such advice.[8]

The President and both Houses of Parliament together constitute Parliament; addresses both Houses of Parliament assembled together at the commencement of the first session of each year; summons and prorogues both Houses of Parliament and dissolves the Lok Sabha from time to time.[9]

A bill passed by Parliament becomes an Act only when the President assents to it.

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[1]Chambers, p. 780
[2]Webster, p. 1153
[3]Art. 53
[4]Art. 54
[5]Art. 55(3)
[6]Art. 56
[7]Art. 58
[8]Art. 74
[9]Arts. 85 and 87

PRESS GALLERY

A reporters' gallery[1]; a gallery in a Legislative chamber for the exclusive use of the press.[2]

Each House of the British Parliament has a gallery for the press. In the House of Commons, it is above and behind the Speaker's Chair,[3] in House of Lords, it faces the throne.[4]

An order that strangers do withdraw extends to the press gallery.[5]

In India, both Houses of Parliament provide a gallery for the exclusive use of the press; admission to the press gallery is regulated on the basis of the advice given by the Press Gallery Committee; persons are admitted on presentation of a press card issued by the Secretary-General of the House concerned in accordance with the orders made by the Speaker/Chairman.[6]

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[1]Chambers, p. 781
[2]Wilding & Laundy, p. 578
[3]Abraham & Hawtrey, p. 152
[4]Wilding & Laundy, p. 578
[5]May, p. 183
[6]Kaul & Shakdher, pp. 953, 954

PRESSURE GROUPS

Groups exerting pressure on a govt. for their own special purpose;[1] any combination of persons, bound together by shared goals and attitudes, who attempt to obtain decisions favourable to their preferred values by all means at their disposal, specially by gaining access to the governmental process.[2]

When industrial, commercial, professional, or other sections of the community, represented by societies, trade unions or professional associations, try to influence Parliament to promote, withdraw or repeal legislation, they are commonly known as 'pressure groups'; a unique facet of British political system.[3]

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[1]Oxford, p. 965
[2]U.N.E.S.C.O., p. 530
[3]Wilding and Laundy, p. 578

PRESUMPTION OF CONSTITUTIONALITY

An assumption made failing proof to the contrary that an enactment is in accordance with the Constitution. The presumption is always in favour of the constitutionality of an enactment and the burden is upon him who attacks it to show that there has been a clear transgression of the Constitutional principles[1]. By reason of this presumption, "while considering the validity of the law the Court will not consider itself restricted to the pleadings of the state and would be free to satisfy itself whether under any provision of the Constitution the law can be sustained."[2]

[1]Charanjit Lal *V.* Union of India, A.I.R. 1951, S.C. 41 & 45.
[2]Burrakur Coal Co. *V.* Union of India, AIR, 1961, S.C. 954, p. 964.

PREVENTIVE DETENTION

Detention of a person without trial; resorted to for the purpose of preventing a person from committing certain specified offences; a person held under preventive detention in such circumstances that the detaining authority may not have sufficient evidence to make a legal charge, but may still be sufficient to justify his detention[1].

In England, preventive detention is provided only in times of war; it was provided by Regulations framed under the Defence of the Realm Act, 1914; there is no law of preventive detention in times of peace[2]. In India, preventive detention is a permanent feature of the Constitution; it can be resorted to in peace time; preventive detention can be made to prevent any person from acting in a manner prejudicial to (i) the defence of India, the relations of India with foreign powers or the security of India, (ii) the security of the State or the maintenance of public order, (iii) the maintenance of supplies and services essential to the community. A foreigner can also be held under preventive detention[3].

Parliament has exclusive power to legislate as regards preventive detention[4]; it can fix the maximum period of such detention.

A person held under preventive detention has to be communicated the grounds of his detention; he has also to be provided with an early opportunity to make a representation against the detention order; however the detaining authority need not disclose to the detenu such facts as it considers to be against public interest to disclose.

A person cannot be held under preventive detention for a period longer than three months unless the Advisory Board consisting of persons who have been or are qualified to be appointed as High Court Judges, reports before the expiry of three months about the sufficiency of the cause for such detention.[5]

Members privilege of freedom from arrest cannot extend or be contended to operate where the member himself is charged with an indictable offence. This privilege of freedom from arrest does not extend to preventive arrest or detention under statutory authority by executive order.[6]

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[1]Basu, Vol. 2, p. 106
[2]*Ibid,* pp.105-106
[3]P.D. Act, Sec. 3
[4]Basu, Vol. 2, p. 109
[5]Art. 22(4), (5), (6) & (7)
[6]Kaul & Shakdher, pp. 247, 249

PRIME MINISTER

The Chief executive and head of the Government;[1] principal minister of any sovereign or state.[2]

In U.K., the Leader of the Government and majority party; appointed by the Crown; enjoys strong position in determining policies and taking important decisions; forms Cabinet and can reshuffle whenever he likes; principal advisor to the Crown who has to accept the advice; empowered to have the House of Commons dissolved[3]; responsible to the Crown for administration of public affairs.[4]

In India, appointed by the President;[5] leader of the House[6] by Lok Sabha or Rajya Sabha head of the Council of Ministers[7]; advises, the President on appointment of other ministers[8]; communicates all administrative decisions of the Council of Ministers relating to the administration of the affairs of the Union to the President[9]; furnishes administrative information as sought by him;[10] submit the decision taken by a minister which has not been placed before the Council of Ministers for its consideration if desired by the President[11]; the keystone of the Cabinet arch; co-ordinates the policy of the Government.[12]

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[1]Webster, p. 1157
[2]Oxford, p. 968
[3]Dunner, p. 427
[4]Wilding & Laundy, p. 580
[5]Art. 75 (1)
[6]Rule 2(1)
[7]Art. 74 (1)
[8]Art. 75(1)
[9]Art. 78(a)
[10]Art. 78 (b)
[11]Art. 78 (c)
[12]Basu (Vol. 2) (4th edn.), pp. 444-45

PRIVATE MEMBER

A member of a legislature other than a Minister.[1]

In U.K., a member of House of Commons who is not an office holder in the Government or an opposition leader; also known as backbencher[2]; apart from question time and daily half hour adjournment motion, certain time is devoted for Private Members' business consisting of bills and motions. First 20 Fridays of the session are allotted for Private Members' business.[3]

In India, members other than Minister; the last two and half hours on every Friday are spent on private members' business. Private Members' business comprises of Private Members' Bills, Private Members' Resolutions, Motions for adoption of Reports of the Committee on Private Members' Bills and Resolutions etc.[4]

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[1]Rule 2(1) (Lok Sabha) & Rule 2(1) (Rajya Sabha)
[2]Wilding and Laundy, p. 588
[3]*Ibid,* p. 589
[4]Rule 26(Lok Sabha), Rule 24 (Rajya Sabha) and Kaul & Shakdher, pp. 424

PRIVATE MEMBERS' BUSINESS

The business in a Legislature consisting of Bills and Resolutions initiated by Members other than Ministers; it is usually taken up on Fridays.

In the House of Commons, a Standing order provides for 13 Fridays on which Private Members' Bills have precedence over Government business; Private Members' motions are taken up on certain Fridays and on part of four Mondays each session.[1]

Ballot is held for Bills as well as notices of motions. Ballot for Bills is taken at a time and place fixed by the Speaker and is conducted by the Chairman of Ways and Means. The ballot for notices of motions is held usually in the House under the supervision of the Speaker.[2] Any Member who wishes to enter the ballot signs his or her name in the ballot book, which is placed on the 'No' division lobby for the purpose during the hours the House sits.[3]

In the Indian Parliament, Private Members' business is normally transacted during the last two and a half hours of the sitting on Friday; the Speaker in the Lok Sabha and the Chairman in the Rajya Sabha may, in consultation with the Leader of the House, allot any day other than a Friday for the transaction of Private Members' business. Speaker/Chairman also allots different Fridays for different classes of such business.[4]

The Private Members' business consists of Bills and Resolutions, Relative precedence of Bills is determined by ballot; it can be varied by a special order of the Speaker/Chairman in their respective Houses.[5] The relative precedence of resolutions too is determined by ballot held in accordance with orders made by the Speaker/Chairman.[6]

Private Members' business set down for a particular day allotted to that class of business and not disposed of on that day has to gain priority through ballot in order to be taken up on any subsequent day; however the part-discussed item has priority over all other items on the subsequent day[7]; in case the time allotted for the part-discussed resolution is increased by the House and as a result thereof the next resolution entered in List of Business on basis of first priority is not moved on that day, it will be set down as the first item on the subsequent Private Members' day allotted for resolutions after the part-discussed resolution.[8]

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[1]May, pp. 270 & 277
[2]*Ibid*, p. 495
[3]*Ibid*, p. 495
[4]Rule 26 (Lok Sabha) & Rule 24 (Rajya Sabha)
[5]Rule 27(2)(3) (Lok Sabha) & Rule 25 (Rajya Sabha)
[6]Rule 28 (Lok Sabha) & Rule 26 (Rajya Sabha)
[7]Rule 29 (Lok Sabha) & Rule 27 (Rajya Sabha)
[8] Direction 9A (Lok Sabha)

The Committee on Private Members' Bills and Resolutions examines and categorises the Bills and recommends time for discussion of such Bills and Resolutions. The Committee categorises the Bills according to their nature, urgency and importance. The recommendations of the Committee are presented to the House in the form of a report. The Deputy Speaker is invariably included as a Member of the Committee.[9]

(For details, *see* under Committee on Private Members' Bills and Resolutions.)

[9]Kaul & Shakdher, pp. 781, 782, 783

PRIVILEGE

A right, advantage, favour or immunity granted to some person, group of persons or class not enjoyed by others and sometimes deterimental to them;[1] Right, advantage, immunity, belonging to person, class or office[2]; an exceptional right or advantage[3]; a right peculiar to an individual or body.[4]

Special rights or privileges enjoyed by Members of Parliament.[5] These rights are enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by members of each House individually; without these rights they could not discharge their functions; these exceed the rights possessed by other bodies or individuals; privilege, though part of the law of the land, is to a certain extent an exemption from the general law.[6]

In British Parliament, some privileges rest upon the law and custom of Parliament and some have been defined by statute. The Lords have always enjoyed them, by contrast with the Lords, the acquisition of these privileges by the Commons was both complex and prolonged.[7]

All privileges appertain equally to both Houses. The main privileges are (i) freedom of speech; (ii) freedom from arrest in civil cases or molestation; (iii) exemption from attending as a witness; (iv) exemption from jury service.[8]

A number of privileges have been surrendered or modified over the years.[9]

The Parliament has the power to protect its privileges and punish its violation.

The main privileges of Indian Parliament and its members are: (i) freedom of speech in Parliament; (ii) immunity to a member from any proceedings in any court in respect of anything said or any vote given in Parliament or any Committee thereof[10]; (iii) prohibition on the courts to inquire into proceedings of Parliament[11]; (iv) freedom from arrest of members in civil cases during the continuance of the session of the House and forty days before its commencement and forty days after its conclusion (Sec. 135, C.P.C.); (v) right of the House to receive immediate information of the arrest, detention, conviction, imprisonment and release of a member; (vi) exemption of a member

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[1]Webster, p. 1160
[2]Oxford, p. 971
[3]Wharton, p. 802
[4]Anderson, p. 812
[5]Chambers, p. 786
[6]May, p. 65
[7]*Ibid*, pp. 67 & 68
[8]*Ibid*, pp. 83, 100, 105 & 106
[9]*Ibid*, p. 81
[10]Art. 105(1)(2)
[11]Art. 122

from service of legal process and arrest within the precincts of the House; and (vii) members or officers of the House cannot be compelled to give evidence or to produce documents in courts of law, relating to the proceedings of the House without the permission of the House (First Report, CPR-2LS).[12]

Each House is the guardian of its own privileges.

The House has the power to protect its privileges and punish the offenders.[13]

(For details *see* under 'Breach of Privilege' and 'Contempt of the House').

The privileges of the House extend to all its Committees.[14]

[12]Rules 229, 230, 232, 233 (Lok Sabha) & Rule 222 (Rajya Sabha)
[13]Kaul & Shakdher, p. 212
[14]*Ibid*, p. 212

PRIVILEGE—QUESTION OF

The subject matter of privilege, allegedly breached, contained in the notice given by a Member of the Legislature which is sought to be raised by him on the Floor of the House; the question is raised under the relevant rules of the House.

In the House of Commons, a Member who wishes to raise a privilege complaint is required to give a notice to the Speaker; this may be given as soon as possible after the occurrence of the alleged breach of privilege. The Speaker has the discretion to decide about the precedence to be accorded to the matter. On being allowed, the Member is required to table a motion for the following day. He can propose that the matter may be referred to the Committee on Standards & Privileges or make some other appropriate proposition.[1]

In Indian Parliament, a Member may, with the consent of the Speaker/ Chairman, raise a question involving a breach of privilege either of a Member or of the House or of a Committee thereof.[2] A Member wishing to raise a question of privilege is required to give notice in writing to the Secretary-General before the commencement of the sitting on the day the question is proposed to be raised. If the question raised is based on a document, the notice is required to be accompanied by the document.[3] The right to raise a question of privilege is governed by the following conditions, namely:—

(i) not more than one question is raised at the same sitting; (ii) the question is to be restricted to a specific matter of recent occurrence; and (iii) the matter requires the intervention of the House.[4] After the leave is granted, the House may consider the question and come to a decision or refer it to the Committee of Privileges on a motion made either by the Member who has raised the question of privilege or by any other Member.[5] In the Lok Sabha the Speaker and in the Rajya Sabha the Chairman may refer any question of privilege to the Committee of Privileges for examination, investigation or report.[6]

(For details *see* 'Committee of Privileges'.)

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[1]May, p. 144
[2]Rule 222 (Lok Sabha) & Rule 187 (Rajya Sabha)
[3]Rule 223 (Lok Sabha) & Rule 188 (Rajya Sabha)
[4]Rule 224(i), (ii) & (iii) (Lok Sabha) & Rule 189 (i) & (ii) (Rajya Sabha)
[5]Rule 226 (Lok Sabha) & Rule 191 (Rajya Sabha)
[6]Rule 227 (Lok Sabha) & Rule 203 (Rajya Sabha)

PRIVY PURSE

Allowance for the private or personal use of the sovereign[1]; allowance from public revenue for monarch's private expenses[2]; the sum fixed by the Govt. of India for covering the expenses of each of the rulers of former Indian States and their families in consideration of their agreement of merger in the Indian Union[3]; privy purse no longer in existence; Constitutional provision relating to it repealed by section 2 of Constitution (Twenty-Sixth Amendment) Act, 1971.

[1]Chambers, p. 789
[2]Oxford, p. 972
[3]Basu, Vol. 4, p. 369

PROBATIONER

One who is on probation or trial[1]; a government servant on probation; can be discharged and such discharge does not amount to dismissal or removal within the meaning of Art. 311(2); the services of a probationer are terminated in accordance with the rules and not by way of punishment.[2]

[1]Chambers, p. 786
[2]Ravendra Chandra *Vs.* Union of India AIR 1963, S.C. 1552, p. 1554

PROCEDURE ESTABLISHED BY LAW

The procedure prescribed by the law of the State.[1] It does not mean 'due process of law'[2]

(For details *see* under this heading).

In U.K. law being state made or enacted and not the general principles of natural justice, procedure established by law means the procedure prescribed by the Legislature.[3]

In India as in U.K., the Legislature is free to lay down any procedure, within the ambit of its legislative power; all that is required to deprive a person of his life or personal liberty is to lay down a procedure by an *intra vires* enactment.[4]

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[1]Art. 21
[2]A.K. Gopalan *Vs.* State of Madras, AIR, 1980, S.C. 27
[3]Basu (6th edn.), Vol. D. p. 101
[4]*Ibid.* p. 101 & 104

PROCEEDINGS

A record of the business transacted by a learned society or other organised group[1]; all the steps or measures adopted in the prosecution or defence of an action.[2]

In Parliament, the formal action taken by the House in its collective capacity; extends to the forms of business in which the House takes action and the whole process by which it reaches a decision.

Speeches, voting, giving notice of a motion or question, presenting a petition or a report from Committee etc. are different forms by which members participate in the proceedings.[3] Proceedings cover everything said or done in the House in the transaction of Parliamentary business.[4]

However, a casual conversation in the House, during the course of the debate, is not a part of the proceedings.[5]

In the British Parliament as well as in the Indian Parliament, a member is not amenable to any court for anything said in a debate in the House, however, criminal in its nature.[6] Similarly, leave of the House is necessary for giving evidence in a court of law in respect of proceedings in the House or its Committees[7].

A criminal act, committed within the House is not regarded as a part of the proceedings of the House in India; a Member who commits such an act may not only be expelled from the House, but also be proceeded against under the ordinary criminal law.[8]

In Britain it would be hard to show how a criminal act committed by a Member, however, could form part of the proceedings of the House. Apart from Eliot's case over 350 years ago, no charge against a Member in respect of an allegedly criminal act in Parliament has been brought before the courts.[9]

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[1]Webster, p. 1161
[2]Anderson, p. 816
[3]May, p. 95
[4]Kaul & Shakdher, p. 232
[5]May, p. 98
[6]May, p. 99 and Kaul & Shakdher, p. 234
[7]Kaul & Shakdher, p. 232
[8]Kaul & Shakdher, p. 234
[9]May, p, 99

PROHIBITION

An order or law forbidding something to be done;[1] a writ directed to the judge and Parties to a suit in any inferior court commanding them to cease from the prosecution thereof, upon a suggestion that either the cause originally or some collateral matter arising therein does not belong to that jurisdiction, but to the cognizance of some other Court; suspends all action and prevents further proceedings in the prohibited direction;[2] a remedy provided by the Common Law against the encroachment of jurisdiction.[3]

In India, the Supreme Court and the High Courts issue the writ of prohibition to an inferior Tribunal forbidding it from continuing with a proceeding therein on the ground that the proceeding is without or in excess of jurisdiction or contrary to the laws of the land, statutory or otherwise;[4] these writs could be issued not merely to court, but to authorities exercising judicial or quasi-judicial functions.[5]

[1]Webster, p. 1164
[2]Anderson, p. 823
[3]Wharton, p. 808
[4]East India Commercial Co. *Vs.* Collector of Customs, AIR 1962, SC 1893, p. 1903
[5]Harivishnu Kamath *Vs.* Ahmad Ishaque, AIR, 1955. S.C. 233 at p. 240-241

PROPERTY

Holdings or possessions collectively; especially, land or real estate owned;[1] a piece of land owned by somebody; right of possessing, employing etc.;[2] generic term for all that a person has domination over; its two leading divisions are (1) real, and (2) personal; every possible interest which the party can have.[3]

In its most general usage, property denotes ownership of the things owned. This word came into use only in the 18th century.[4]

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[1]Webster, p. 1167
[2]Chamber, p. 792
[3]Stroud, Vol. 2, 2089
[4]UNESCO, p. 549

PROPORTIONAL REPRESENTATION

A system to give parties in an elected body a representation as nearly as possible proportional to their voting strength; often loosely applied to the system of transferred vote.[1]

A system of voting deliberately designed to ensure that as far as practicable the different shades of opinion in a country shall receive a fair representation in the elected assembly, *i.e.* a representation proportionate to their relative strength.[2]

A method of representation designed to secure the election of candidates in proportion to the numerical strength of each section of political opinion thus accurately reflecting the political feeling of the country in Parliament.[3]

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[1]Chambers, p. 792
[2]UNESCO, p. 551
[3]Wilding and Laundy, p. 602

PUBLIC NOTIFICATION

A notification in the Gazette of India, or as the case may be, the official Gazette of a State.[1]

(Also *see* under 'Gazette')

PUBLIC NUISANCE

Doing a thing to the annoyance of the public or neglecting to do a thing which the common good requires;[2]

*(a) Any nuisance is 'public' which materially affects the reasonable comfort and convenience of a class..... To establish the offence of public nuisance it is necessary to show that a substantial section of the public has been affected, as opposed to just a few individuals.[3]

In India, a punishable offence; the ingredients of this offence are: (1) doing of any act or illegal omission to do an act; (2) the act or omission causes any common injury, danger or annoyance to the public; has both civil as well as criminal liability.[4]

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[1]Art. 366 (19)
[2]Anderson, p. 718
[3]Stroud, Vol. 2. p. 2121
[4]Indian Penal Code, sec. 268 and Commentary by Ratan Lal and Dhiraj Lal, 25th Edn. p. 206-208

PUBLIC PURPOSE

Whatever furthers the general interests of the community as opposed to the particular interest of the individual.[1]

'Public Purpose' has to be construed according to the spirit of the time in which particular legislation is enacted.[2]

The State can impose compulsory service for public purpose.[3]

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[1]State of Bihar V. Kameshwar Singh A.I.R. 1952 S.C. 252 at p. 290
[2]A.I.R. 1952 S.C. 252 at p. 274
[3]Art. 23(2)

PUBLIC SERVICE COMMISSION

An independent body under the State entrusted with the task of recruitment of civil servants.

In England it is known as the Civil Service Commission; consists of three members appointed by the Crown; in Canada too it is known as Civil Service Commisison; in Australia it is called Public Service Board.[1]

In India, a Public Service Commission is appointed for the Union and for each State;[2] the main function is to conduct examinations for appointments to the services of the Union and of the States.[3]

Two or more States may agree for a joint State Public Service Commission; the Union Public Service Commission, with the approval of the President, may agree to serve all or any of the needs of a State on being requested by the Governor of that State;[4] the Chairman and other members of the Union Public Service Commission and Joint Commission are appointed by the President and in case of a State Commission by the Governor of the State; the term of office of the members is six years or the age of sixty-five years in case of the Union Public Service Commission and sixty-two years in the case of a State or Joint Commission, whichever is earlier;[5] the President can remove a member or Chairman of a Public Service Commisison in case of proved misbehaviour, insolvency, paid employment outside the duties of his office and infirmity of his body or mind[6].

The Chairman of the Union Public Service Commission will be ineligible for further employment either under the Government of India or the Government of a State; the Chairman of a State Public Service Commission is eligible to become Chairman or member of Union Public Service Commisison or the Chairman of another State Public Service Commission, but not any other employment under the Union or the States.[7]

The Union and the State Public Service Commisisons are consulted in matters relating to methods of recruitment to Civil Services and posts, the principles to be followed in making appointments to the same, disciplinary matter affecting the persons serving under the Government in a civil capacity, etc.;[8] however, the consultation is directory.[9]

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[1]Basu (4th Edn.) Vol. 5; p. 117-18
[2]Art. 315 (1)
[3]Art. 320
[4]Art. 315 (2) (4)
[5]Art. 316
[6]Art. 317 (1) and (3)
[7]Art. 319
[8]Art. 320
[9]State of U.P. V. Manbodh Lal A.I.R. 1958 S.C. 912

The Union Public Service Commission submits its report to the President who causes a copy thereof together with a memorandum explaining the reasons where the advice of the Commission had not been accepted to be laid before each House of the Parliament; the State Commission likewise submits its report to the Governor; the report together with the memorandum is caused to be laid before the Legislature[10].

[10]Art. 323

PUBLICATION OF BILLS AND REPORTS

Publication of Bills and Reports under the authority of the Legislative House. In the House of Commons, the contents of a Bill are published after it is printed.[1] The reports of a committee presented to the House are ordered to be printed and then they are published in their complete form.[2]

In India the Speaker/Chairman may, on request being made, order the publication of any Bill before introduction.[3] If the Bill is not published earlier, it is published in the Gazette after introduction.[4] Every report of a Select Committee and the Bill, as reported by the Select Committee, are published in the Gazette.[5] The publication of parliamentary papers is authorised by the Speaker.[6] Therefore, the Editor of a newspaper cannot claim a right to publish those portions of a speech in Parliament which have been directed to be expunged by the Speaker.[7] The report of the proceedings of the Council of States is published under the directions of the Chairman.[8]

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[1]May, p. 571
[2]*Ibid*, p. 722
[3]Rule 64 (Lok Sabha); Rule 61 (Rajya Sabha)
[4]Rule 73 (Lok Sabha); Rule 68 (Rajya Sabha)
[5]Rule 305(Lok Sabha); Rule 92 (Rajya Sabha)
[6]Rule 382 (1) (Lok Sabha)
[7]Sharma V. Sri Krishna (II) A.I.R. 1960 S.C. 1186 at p. 1191
[8]Rule 260 (Rajya Sabha)

Q

QUESTION

Something that is asked;[1] interrogative sentence;[2] interrogation.[3]

In Parliament, the question put by a Member to a Minister to obtain information or press for action; it covers the whole administration of the country, and range from foreign relations to the individual victim of bureaucracy.

In the British Parliament the first formal question to a Minister was put in 1721 in the House of Lords.[4]

There are basic rules concerning the form and content of questions. Some of the rules followed in the British Parliament are as follows:—

(1) a question should not contain arguments;

(2) it must have a factual basis;

(3) it should avoid personal reflections;

(4) no question about the sovereign, crown and royal family;

(5) it must relate to matters for which the Ministers are responsible;

(6) it should not refer to a matter which is *sub judice;*

(7) it should not raise matters of policy too large to be dealt with in an answer etc.[5]

The Speaker is the final authority as to the admissibility of questions; his responsibility is limited to their compliance with the rules of the House.

The Clerks at the Table have full power to sub-edit questions.

Notice of a question is given by delivering the terms thereof in writing to the Clerks at the Table or in the Table Office; Member's name must be written on the copy so delivered; no notice of question is accepted over the telephone;[6] the notice of a question can be withdrawn at any time before the question is due to be asked; the minimum period of notice is two days;[7] Questions are addressed to private Members also; these relate to Bills, motions etc. for which such members are responsible;[8]

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[1]Webster, p. 1193
[2]Oxford, p. 1007
[3]Anderson, p. 851
[4]Wilding & Laundy, p. 627
[5]May, pp. 297-303
[6]*Ibid,* p. 292
[7]*Ibid*, p. 293
[8]*Ibid*, p. 296

In the Indian Parliament too the basic rules which govern the admissibility of questions are more or less the same as in the British Parliament. Some of the rules which are peculiar to the Indian Parliament are:

(1) a question must not reflect on the character or conduct of a person whose conduct can only be challenged on a substantive motion;

(2) a question must not ask for information on matters of past history;

(3) a question must not ask for information on trivial matters;

(4) a question must not ask for information on confidential matters;

(5) a question must not ordinarily exceed 100 words in Rajya Sabha & 150 words in Lok Sabha;

(6) a question must not refer discourteously to friendly foreign country etc.[9]

In the Lok Sabha maximum period of notice required is 21 days and minimum 10 days; in the Rajya Sabha, not less that 15 days clear notice of a question shall be give;[10] the notice of a question is given in writing to the Secretary-General; the official designation of the Minister to whom the question is addressed, and the date on which the question is proposed to be put, are required to be specified. A member may ask for either an oral answer or a written answer to his question. When a Minister has refused to answer a question, subsequent notices of questions on the same subject are disallowed.[11]

The Speaker in the Lok Sabha and the Chairman in the Rajya Sabha decides the admissibility of a question or part of it; the Speaker/Chairman can also change the date of the question if he thinks that a longer period is necessary to decide its admissibility.[12] The Speaker may direct that similar questions or questions on allied subjects may be consolidated into a single question.[13]

Questions may also be addressed to a private member on a matter concerning a Bill, resolution or other matter for which that Member is responsible.[14]

Questions admitted are entered in the lists of questions for oral and written answer for a day in acocrdance with the limit prescribed.[15]

A member can withdraw his question by giving notice at any time before the sitting for which his question has been placed on the list.[16]

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[9]Kaul & Shakdher, pp. 455 to 465 & Rule 41 & Rule 47 (Rajya Sabha)
[10]Rule 33 (Lok Sabha) & Rule 39 (Rajya Sabha)
[11]Kaul & Shakdher, pp. 445, 446, 447
[12]Rule 43(1) (2) (Lok Sabha) & Rule 49(1)(2) (Rajya Sabha)
[13]Direction 10
[14]Rule 40 (Lok Sabha) & Rule 46 (Rajya Sabha)
[15]Rule 45 and 46 (Lok Sabha) & Rule 51 (Rajya Sabha)
[16]Rule 47 (Lok Sabha) & Rule 53 (Rajya Sabha)

QUESTION, STARRED

A question seeking oral answer in the House, distinguished by an asterisk.

In the House of Commons, the notice of this type of question must be given in person by a Member to the Minister concerned notice of a question for oral answer may not be given on a day earlier than 10 sitting days before the day for answer. Further, a member cannot ask more than two oral questions in any one day.[1]

The order in which the Ministers and private members answer oral questions is decided by the Government.[2]

In the Lok Sabha, only one question for oral answer is allowed in the name of one member on any day the list of questions for oral answers for any day contains twenty questions whose relative priority is decided by ballot; this does not include the postponed/ transferred questions, the notices of questions admitted and not included in the list for oral answers are transferred to the list of questions for written answers.[3]

In the Lok Sabha a starred question can be converted into unstarred one by the Speaker if he thinks that a written answer would be more appropriate. In the Rajya Sabha if in the opinion of the Chairman any question put down for oral answer is of such a nature that a writtten reply would be more appropriate, the Chairman may direct that such question be placed in the list of questions for written answer.[4]

Different days are allotted for different Ministries/Groups of Ministries for answering questions.[5]

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[1]May, p. 292
[2]*Ibid*, p. 293
[3]Kaul & Shakdher, pp. 449, 450
[4]*Ibid*, p. 447 and Rule 44 (Lok Sabha) & Rule 50 (Rajya Sabha)
[5]Rule 38 (Lok Sabha) & Rule 44 (Rajya Sabha)

QUESTION, UNSTARRED

A questions which seeks a written answer, it is not distinguished by an 'asterisk'; it is not asked orally.

In the House of Commons, this type of questions are marked with the letter N; the period of notice is the same as in the case of oral questions; member has to indicate the date on which he wants an answer; in the absence of this indication, the question is put down for the second sitting day after the day on which it was handed in; the answer may appear within a working week of their being tabled.[1]

In the Indian Parliament, written answers to unstarred questions shall be deemed to have been laid on the Table at the end of the Question Hour or as soon as the questions for oral answer have been disposed of, as the case may be, by the Minister to whom the questions are addressed. No oral answer is required for such questions nor any supplementary questions can be asked in respect thereof.

Not more than two hundred and thirty Questions, excluding questions postponed/transferred, are included in the List of Questions for Written Answers on any one day; In case of States under President's rule, 25 additional questions can be included in the list for written answer.[2]

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[1]May, p. 293

[2]Kaul & Shakdher, p. 451, Rule 39(1) (3) and Rule 45 (Lok Sabha)

QUESTION, SHORT NOTICE

A question for oral answer on matter of public importance urgent in character; it requires a shorter notice.

In the House of Commons, such a question is called Private notice question; it may relate to matters of public importance or to the arrangement of business; it is taken up after half past three or at eleven O'clock on a Friday; the notice is to be given to the Speaker before noon on the day on which it is to be asked; notice is to be given to the Minister concerned also; however, it does not appear on the Paper.

Short notice question cannot anticipate a question for oral answer for which notice has been given and answer is likely to be given at an early date. Members may not ask more than one such question on a day but can submit more than one.

The Leader of the Opposition always asks question by Private notice only.[1]

In the Lok Sabha, the notice is shorter than ten days; the Minister concerned has to be asked whether he can reply to the question at Short notice and, if so, on which date. It is actually for the Minister to accept or not to accept short notice of a Question. (a) But it is within the discretion of the Speaker to disallow a question even if the Minister is prepared to answer it. An admitted Short Notice Question on any day is called immediately after the Question Hour or immediately after the oral questions for the day have been disposed of, whichever is earlier.[2]

If the Minister regrets to accept it at short notice, and if the Speaker in Lok Sabha and the Chairman in Rajya Sabha respectively is of the opinion that it is of sufficient public importance to be orally answered, it may be placed in the list of questions for oral answer as first question.[3]

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[1]May, p. 306
[2]Kaul & Shakdher, p. 479, 480
[3]Rule 54(3) (Lok Sabha) & Rule 58(3) Rajya Sabha.

QUESTION, SUPPLEMENTARY

Questions asked by Members in the Legislature arising out of the answer to the main oral questions; these are asked to seek further elucidation of the answer given by the Minister.

In the House of Commons, supplementary questions are also governed by the general rules concerning Questions; they are not permitted to be read; lengthy question is not allowed; it can refer only to the oral answer out of which it immediately arises; it cannot refer to an earlier answer or be addressed to another Minister.[1]

In the Lok Sabha, supplementary questions arising out of the answer to the main Question may be asked by any member, when called by the Speaker for the purpose of further elucidating a matter of fact. The member who asks the Question listed in his name gets a chance to ask two Supplementary Questions after the Minister has replied his Question. Thereafter, the second member, if any, whose name appears on the question, gets a chance to ask one Supplementary Question. Thereafter, any member when called by the Speaker may ask a Supplementary Question. Supplementary Questions should be specific, relevant and within the scope of the main Question. The Speaker has the power to determine the number of supplementaries on a particular question. Supplementary Questions are governed by the same rules of admissibility as are applicable to the main Questions.[2]

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[1]May, p. 305
[2]Kaul & Shakdher, pp. 477, 478 & 479

QUESTION, WITHDRAWAL OF

Withdrawal of a question by a member before it is due to be asked.

In the House of Commons, notice of a question can be withdrawn at any time before it is due to be asked; after it is withdrawn, the text is reprinted in a memorandum at the end of the next issue of the notice paper.[1]

In the Lok Sabha a member can withdraw the question before the sitting for which his question has been placed on the list; he can also withdraw it by making a statement to that effect when his question is called by the Speaker.[2]

In the Rajya Sabha also a member may, by notice given at any time before the meeting for which his question has been placed on the list, withdraw his question.[3]

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[1]May, p. 293 & 294
[2]Rule 47 (Lok Sabha) and Kaul & Shakdher, p. 475
[3]Rule 53 (Rajya Sabha)

QUESTION HOUR

The time fixed for asking and answering oral questions in a sitting in a Legislature; it is fixed under the Rules of the House or Standing Orders.

In the House of Commons, oral questions are taken up after private business and motions for unopposed returns have been disposed of; thus the question time starts not later than a quarter to three on Mondays, Tuesdays, Wednesdays and Thursdays. On Fridays, questions may be asked, but the Ministers are under no obligation to be present to answer them. When the House meets at half-past nine O'clock on days other than Fridays, usually questions are taken up till half-past ten O'clock. On occasions, if the House wants to proceed immediately to the orders of the day, the questions are deferred en bloc.[1]

In the Indian Parliament, the first hour of every sitting of both the Houses is set apart for asking and answering question.[2] Both the Houses meet in their respective chambers from Monday to Friday at 11 O'clock. If the sittings are held on Saturdays or if the Session is extended beyond the scheduled sittings, question hour is not provided on those days. The question hour is not extended beyond the first hour, though on rare occasions Question may be answered even after the Question Hour is over, with the permission of the Speaker/Chairman. Short Notice Question, if any, is taken up immediately after the Question Hour. If the House agrees unanimously, the Question Hour may be dispensed with on some days to devote more time to other important business.[3]

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[1]May, p. 291
[2]Rule 32
[3]Kaul & Shakdher, p. 442

QUO WARRANTO

A writ ordering a person to show by what right he exercises an office, franchise or privilege.[1]

Formerly, a prerogative writ in England; the Crown inquired into the legality of the claim asserted by a person any public office or franchise; the procedure of the writ changed later; now, instead of the writ of *quo warranto,* the High Court would issue an injuction against the usurper to the office in question; however, the change is only in form and procedure.[2]

In India, the Supreme Court and High Courts issue the writ in the nature of *quo warranto.*[3] The procedure of *quo warranto* confers jurisdiction and authority on the judiciary to control executive action in the matter of making appointments to public offices. Before a citizen can claim the writ, he must satisfy the court that (i) the office in question is a public office, (ii) is held by a usurper without legal authority, and (iii) the appointment of the said usurper has not been made in accordance with law.[4]

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[1]Webster, p. 1196
[2]Basu, 6th ed, vol. H, pp. 276-278
[3]Arts. 32 and 226
[4]University of Mysore *V.* Govinda Rao, S.C. 491 at p. 494.

QUORUM

Fixed number of members that must be present to make proceedings of an assembly valid;[1] the minimum number required to be present at an assembly before it can validly proceed to transact business;[2] a certain number of members of an administrative and judicial body whose presence is necessary to the transaction of business;[3] the minimum number of members fixed under law to constitute a valid sitting of a Legislative House.

The quorum of the House of Commons is forty including the Speaker; however, the House is not counted at any time and quorum is required at the time of division only; the absence of quorum does not result in the termination of a sitting. If at the time of division less than forty members are found to be present, the business under consideration at that time is postponed to the next sitting and the next item of business is taken up.[4] The quorum of all Standing Committees is seventeen or one-third of the membership of the Committee excluding the Chairman whichever is less.[5] The quorum of a Select Committee is fixed by the Order of the House. If no quorum has been fixed, the Committee cannot transact business unless all the members are present.[6] The quorum of the House of Lords is three; however, if less than thirty Lords have voted in a division upon a Bill or subordinate Legislation, the question is declared not decided and the matter is adjourned to a subsequent meeting.[7]

In India, the quorum of either House of Parliament is one-tenth of the total number of members of the House. If at any time during a meeting of a House, there is no quorum, the Chairman or Speaker or person acting as such has to adjourn the House or suspend the meeting until there is a quorum[8]

It is the practice in Lok Sabha that before the Presiding Officer takes the Chair in the morning or House re-assembles after lunch hour, the Marshal ascertains that there is quorum and after he has reported that there is quorum, the Presiding Officer takes the Chair. Thereafter it is presumed that there is quorum throughout a sitting until the lack of quorum is brought to the notice of the Presiding Officer; in case of lack of quorum, the bell is rung, if necessary for the second time too. If there is quorum, the House proceeds and if not, the House is adjourned for lack of quorum.

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[1]Oxford, p. 1011
[2]Webster, p. 1196
[3]Wharton, p. 833
[4]May, p. 260-261
[5]*Ibid*, p. 704
[6]*Ibid*, p. 639
[7]*Ibid*, p. 430, 457
[8]Art 100(3)(4)

Objection to lack of quorum once raised by a Member cannot be withdrawn by him. It is also a well-established convention that House is not counted within one hour of the count as also during the time when the House sits beyond the normal hours. The House is also not counted between 1.00 PM and 2.30 PM when it sits continuously without any lunch break.[9]

The quorum for a sitting of a Committee is generally one third of the total number of members of the Committee. If a member raises the question of quorum, the Chairman of the Committee is required to suspend the sitting until there is quorum or adjourns the sitting to some future date. When a Committee has been adjourned on two successive dates for lack of quorum, the Chairman of the Committee is required to report it to the House or the Speaker. The House or Speaker may then decide the future course of action about the matter.[10]

[9]Kaul & Shakdher, pp. 398-399
[10]Kaul & Shakdher, pp. 748-749 and Rule 259

R

RAILWAY

A track laid with rails for wheels to run on especially for locomotives with passenger and goods wagons: a system of such tracks with equipment and organisation;[1] does not include—

(a) a tramway wholly within a municipal area, or

(b) any other line of communication wholly situated in one State and declared by Parliament by law not to be a railway.[2]

(Also *see* under 'Budget' and 'Railway Convention Committee'.)

[1]Chambers p. 820
[2]Art. 366(20)

RAJYA SABHA

The second Chamber of Indian Parliament; it is called the Council of States.[1]

Rajya Sabha consists of a total of 250 Members; 12 Members are nominated by the President and 238 are elected representatives of States and Union Territories; the minimum qualifying age for membership is thirty years.

The Members nominated to this House consist of persons having special knowledge or practical experience in literature, science, art and social service.[2] To be qualified to be chosen as the Member of Rajya Sabha one has to be an elector for a Parliamentary constituency in India.[3]

Representatives of each State are elected by the elected Members of the Legislative Assembly of the State in accordance with the system of proportional representation by means of the single transferable vote.

Representatives of the Union Territories are elected by an electoral college;[4] the total seats allotted to both States and Union Territories at present is 233.[5] The Rajya Sabha is not subject to dissolution; however, as nearly as possible, one third of its Members retire on the expiration of every second year.[6]

The Vice -President of India is the *ex-officio* Chairman of the Rajya Sabha. Besides, a Member of the Rajya Sabha is chosen by the House to be its Deputy-Chairman.[7]

(For the powers of Rajya Sabha and its position *vis-a-vis* Lok Sabha please *see* under "Parliament—jurisdiction and powers of").

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[1]Art. 79
[2]Art. 80
[3]Section 3 of the Representation of People's Act 1951
[4]Art. 80 and Section 27A of the Representation of the People Act, 1950
[5]Fourth Schedule of the Constitution of India.
[6]Art. 83(1)
[7]Art. 89(1)(2)

READING(S) OF A BILL

The formal stages which a Bill passes through in a Legislature before it is passed.

In the House of Commons, the three stages through which a Bill passes, are called First, Second and Third Reading. During the first reading only short title is read by the Clerk.[1] During second reading there is a wide debate on general application and desirability of the measure.[2] Second reading normally takes place on the Floor of the House but certain public bills are referred to Second Reading Committee for consideration in principle.[3] After the second reading the Bill stands referred to a Standing Committee for detailed examination.[4] Third reading takes palce when a Bill is reported from a Committee of the whole House without amendment or when the consideration of a Bill, as amended, is concluded.[5] At the third reading the Bill is reviewed in its final form with amendments earlier made. No debate may take place. Though formerly the motion could be debated but now such opposition takes place on the motion that this Bill do now pass.[6]

In the Indian Parliament also, three readings are given to a Bill for facilitating adequate scrutiny and debate. First reading is the stage when leave is granted by the House and a Bill is introduced.[7] During the first stage of second reading, which is the most crucial stage, the House considers the Bill as a whole with principle of legislation and its provisions for approval or rejection. Here, the House may refer the Bill to a Select or Joint Committee or circulate it for eleciting opinion thereon.[8] Second stage of the second reading consists of clause-by-clause consideration of the Bill as introduced or as reported by Select or Joint Committee. Each amendment and each clause is voted.[9] Second reading is deemed to be over if the schedule, if any, clause one, the Enacting Formula, Preamble, if any, and the Long Title of the Bill have been adopted by the House.[10] Thereafter starts the stage of Third Reading when the member-in-charge moves that the Bill or the Bill as amended be passed.[11] Debate at this stage is confined either to the support or rejection of the Bill without reference to unnecessary details. Only formal, verbal or

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[1]May, p. 494
[2]*Ibid*, p. 503
[3]*Ibid*, p. 507
[4]*Ibid*, p. 510
[5]*Ibid*, p. 535
[6]*Ibid*, p. 480
[7]Kaul and Shakdher, pp. 480 & 522
[8]Kaul & Shakdher, p. 522, Rule 75(1), 75(2)(a)
[9]*Ibid,* pp. 522-576
[10]*Ibid,* p. 522 & Rules 91 & 92 (Lok Sabha)
[11]*Ibid,* p. 577 & Rule 93 (Lok Sabha)

consequential amendments are allowed at this stage.[12] After the Bill is passed in one House it is sent to the other House for concurrence and there it goes through two stages of reading, namely, the motion for consideration and the motion for passing of the Bill.[13]

[12] *Ibid,* p. 577 & Rule 93(3) (Lok Sabha)
[13] Rules 115 and 119 (Lok Sabha) and Rules 123 & 126 (Rajya Sabha)

REASONABLE RESTRICTIONS

Restrictions imposed by State on the enjoyment of the fundamental rights.

In England, no constitutional guarantee of fundamental rights exists[1]; in U.S.A., restrictions are imposed on the fundamental rights on the grounds of public order, prevention of corruption of the public morals, incitement to crime, etc.[2]

In India, the Constitution lays down certain grounds on which reasonable restrictions can be imposed by law on the exercise of the right to freedom such as sovereignty and integrity of India, the security of the State, public order, friendly relations with foreign States, decency, morality, etc.[3]; the courts can review the reasonableness of these restrictions; the principles for determining the reasonableness are (i) the restriction should not be in excess of the requirement; (ii) the effect of the law should be considered and not its object; (iii) the restriction must have a reasonable relation to the object of the legislation; (iv) the restrictions must be reasonable from the substantive as well as procedural standpoints etc.[4]

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[1]Basu (6th Edition); Vol. C; p. 1
[2]*Ibid,* p. 2.
[3]Art. 19 (2), (3), (4), (5), (6)
[4]Basu (6th Edn.) Vol. C, pp. 30-33

RECESS

Temporary cessation from work, vacation, esp. of Parliament[1]; the period between two Sessions of Parliament. This period between a prorogation of Parliament and the opening of a new Session, as distinct from the period between a dissolution and the calling of a new Parliament.[2]

In India, it is termed as inter-Session period.[3]

[1]Oxford, p. 1032
[2]Wilding & Laundy, p. 634
[3]Kaul & Shakdher, p. 183

REDUCTION IN RANK

A punishment inflicted on Government servants under the service rules.[1]

In England, all servants of the Crown hold office during the pleasure of the Crown; can be dismissed at any time without showing any cause;[2] in Canada, no statutory obligation to make formal investigations to discharge a public servant.[3]

In India too the public servants hold office during the pleasure of the President[4]; however, a civil servant is reduced in rank only after an inquiry is held; he is informed of the charges against him in such inquiry and he is given a reasonable opportunity of being heard in respect of those charges.[5]

Losing places in the seniority list is not tantamount to reduction in rank.[6]

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[1]Purushotham *v.* Union of India, AIR 1958, SC 36
[2]Basu (4th Edn.), Vol. 5; p. 1
[3]*Ibid.* p. 25
[4]Art. 310 (1)
[5]Art. 311 (2)
[6]Shitala Sahai *v.* N.E. Railway, Gorakhpur, AIR 1966, SC 1197

REFLECTION

A remark or statement imputing discredit or blame[1]; piece of censure[2]; reflecting on the proceedings of the House is a violation of the privileges of the House; reflection not allowed to be cast on the conduct of the sovereign, the heirs to the throne or other members of the royal family. The Lord Chancellor, the Governor of an independent territory, the Speaker, the Chairman of Ways and Means, Members of either House of Parliament or judges of the Superior Courts of United Kingdom except on a substantive Motion or on a substantive Motion for the adjournment.[3] In India, it is a breach of privilege and contempt of the House to make speeches or to print or publish any libels reflecting on the character or proceedings of the House or its Committees or on any Member of the House for or relating to his character or conduct as a Member of Parliament.[4]

A member while speaking in the House is barred from reflecting on any determination of the House except on motion for rescinding it or upon the conduct of persons in high authority unless the discussion is based on a substantive motion drawn in proper terms.[5] Reflection on the House, on the character and the impartiality of the Speaker and on the conduct of the Chairman of a Committee of the House also constitute breach of privilege and contempt of the House.[6]

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[1]Webster, p. 1221
[2]Oxford, p. 1040
[3]May, pp. 384 & 385
[4]Kaul & Shakdher, p. 278
[5]Rule 352 (4) & (5) (Lok Sabha)
[6]Kaul & Shakdher, p. 280

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[5]Rule 352 (4) & (5) (Lok Sabha)
[6]Kaul & Shakdher, p. 280

REGISTERED

Officially recorded or enrolled; legally certified or authenticated.[1]

With reference to a document, registered in India under the law for the time being in force for the registration of documents;[2] the Act now in force is the Registration Act, 1908.

[1]Webster, p. 1224
[2]General Clauses Act, Clause 49

REGULATION

A rule or order prescribed[1]; a rule, ordinance or law by which conduct etc. is regulated[2]; law includes regulation (Const).[3] President has the power to make regulations for the peace, progress and good government of Union Territories such as Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli; Daman and Diu etc.; however, when a Legislative Assembly is set up in any of the Union Territories, this power of the President ceases to exist in relation to such Union Territory; the regulations made by the President have the force and effect of an Act of Parliament; can repeal or amend any law made by Parliament or any other law made applicable to the Union Territory concerned.[4]

Where a regulation, rule, sub-rule, bye-law etc. framed in pursuance of the Constitution or of the legislative functions delegated by Parliament to a subordinate authority is laid before the House, the period specified in the Constitution or the relevant Act for which it is required to be laid shall be completed before the House is adjourned *sine die* and later prorogued and also when the regulation is modified in accordance with the amendment passed by the Houses, that amended regulation shall also be laid on the Table.[5]

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[1]Chambers, p. 837 and Oxford, p. 1045
[2]Webster, p. 1225
[3]Art. 13 (3) (a)
[4]Art. 240
[5]Rules 234 & 239

RELIGION

Specific system of belief, worship, conduct involving a code of ethics and philosophy[1]; prevalent system of faith and worship.[2]

In U.K. the Protestant Church headed by the Crown is by law established and built into the fabric of the English Constitution. The State has accepted the Protestant Church as a religious body reflecting the Christian faith.[3]

In Australia, the Constitution gives right to a person to follow his own religious belief and can freely exercise his religion.[4]

In Sri Lanka, the Constitution guarantees a citizen freedom of religion subject to the restrictions prescribed by law in the interests of national unity, integrity and security.[5]

Indian Constitution grants every person fundamental right to freely profess, practise and propagate religion.[6]

(Also *see* under Freedom of Religion)

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[1]Webster, p. 1228
[2]Oxford, p. 1048
[3]Basu, Vol. D. p. 200
[4]Basu, Vol. D. p. 198
[5]Basu, Vol. D. p. 200
[6]Art. 25 (1)

RELIGIOUS DENOMINATION

A religious sect[1]; a religious sect or body having a common faith and organisation and designated by a distinctive name[2]; enjoys certain rights pertaining to the establishment, management etc. of its own religious and charitable institutions.

In Eire, every religious denomination has been given the right to manage its own affairs, acquire and administer property and maintain institutions for religious or charitable purposes.[3]

In India, subject to public order, morality and health, every religious denomination or any section thereof enjoys the fundamental right to establish and maintain institutions for religious and charitable purposes, to manage its own affairs in matters of religion, to own and acquire moveable and immoveable property and to administer such property in accordance with law[4]; different sects and sub-sects of the Hindu religion having a common faith and a common spiritual organisation come under the definition of denomination.[5]

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[1]Webster, p. 392
[2]Commnr. H.R.E.V. Lakshmindra, 1954 S.C.R. 1005
[3]Basu (4th Edn.) Vol. 2, p. 159
[4]Art. 26
[5]Shirur Mutt *V.* Commr. (1952) 1 M.L.J. 557

REPEAL

Revoke, rescind, annul[1]; to withdraw officially or formally[2]; the revocation or abrogation of one written law by another.[3]

Usually repeal of the earlier law is provided in the last clause of the repealing Act.

In the House of Commons, the Interpretation Act, 1978 provides for repealing the Act passed in the same session.[4]

In the Indian Parliament, this clause embodies both repeal and savings. When an enactment is repealed, all rules made thereunder are *ipso facto* repealed. However the repeal does not affect anything done under the repealed Act; it does not affect any right, privilege, obligation or liability acquired or incurred under the repealed Act, or any investigation, legal proceedings or remedy in respect thereof.

The savings clause is inserted in the statute in order to protect or save a person as regards rights which he may have acquired under the law repealed.[5]

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[1]Oxford, p. 1054
[2]Webster, p. 1233
[3]Anderson, p. 879
[4]May, p. 501
[5]Kaul & Shakdher, p. 540

REPRESENTATION

Presentation of a view of facts or arguments; petition;[1] description, account or statement of facts or arguments intended to influence action or make protest;[2] a statement regarding a fact,[3] indication by words, letters by one person to another of the existence of a fact.[4]

Representations by public bodies, associations or individuals ventilating individual grievances are considered by Petitions Committee of Lok Sabha. Representations in the form of letters, telegrams, copies of resolutions are treated as representations and considered by the Petitions Committee; representations relating to the proceedings in the House or conduct of members are also considered by Petitions Committee.[5]

A person arrested and detained in custody is afforded earliest opportunity to make representation against the orders of detention.[6] Language of the Representation should be respectful, decorous and temperate.[7]

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[1]Chambers, p. 844
[2]Webster, p. 1235
[3]Anderson, p. 882
[4]Wharton, p. 869
[5]Kaul & Shakdher, p. 964
[6]Art. 22(5)
[7]Kaul & Shakdher, p. 965

REPRIMAND

A severe or formal rebuke, especially by a person in authority;[1] official rebuke for fault;[2] a form of punishment awarded by a legislature to those who commit a breach of its privilege.

In the British Parliament, when either of the House orders a person (other than a Member) to be reprimanded, the Speaker, if the person is in attendance in the lobby, directs the Serjeant-at-Arms to bring him to the bar to reprimand that person. If a person, who is to be reprimanded, is not in attendance, the House orders the Serjeant-at-Arms to take him into custody and bring him to the bar on a certain day to be reprimanded.[3]

An offender against the privileges of the House of Commons or the House of Lords may be subjected to a reprimand by the Speaker of either House. Members receive a reprimand standing in their place, while non-members are brought to the Bar of the House attended by the Serjeant-at-Arms.[4]

When the offence is not so grave as to warrant the committal of the offender, he is generally directed to be reprimanded by the Lord Chancellor or the Speaker in the name, and by the authority of the House.[5]

In Indian Parliament, where the offence of breach of privilege or contempt is not so serious as to warrant the imprisonment of the offender by way of punishment, the person concerned may be summoned to the bar of the House and reprimanded by the Speaker by the order of the House. Reprimand is more serious mark of the displeasure of the House than the admonition.[6] (Also *see* under 'admonition')

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[1]Webster, p. 1235
[2]Oxford, p. 1055
[3]Abraham & Hawtrey, p. 175
[4]Wilding and Laundy, p. 539
[5]May, p. 138
[6]Kaul & Shakdher p. 261

REPUGNANCY

Repugnance, inconsistency, incompatibility of ideas, statements, tempers;[1] contradictoriness;[2] contradictory of each other, said of clauses in statutes, will, etc.;[3] inconsistency between a State law and Union law.

Question of repugnancy between the two statutes is decided on these principles:—

(1) whether there is direct conflict between the two provisions; (2) whether Parliament intended to lay down an exhaustive code in respect of the subject matter replacing the Act of the State Legislature; and (3) whether the law made by Parliament and the law made by the State Legislature occupy the same field.[4]

In India, if a State law is repugnant to the Union law relating to the same subject in the Concurrent List, the Union law will prevail and the State law will fail to the extent of repugnancy; however, if the State law has been assented to by the President, it will prevail in that State, notwithstanding its repugnancy to an earlier law of the Union; but the Parliament can at anytime enact a law varying or repealing such a law made by a State Legislature.[5]

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[1]Oxford Dictionary, p. 1056
[2]Webster, p. 1236
[3]Dictionary of Law by Anderson, p. 885
[4]Deepchand *v.* State of U.P., AIR 1959, S.C. 665
[5]Art. 254(1)(2)

REQUISITION OF PROPERTY

A demand for or taking of property by authority;[1] taking possession of private property under the authority of law.

In U.K. the Executive cannot take away private property without the authority of law; however, there is no judicial review of the reasonableness or propriety of a law made by Parliament, to take any private property.[2]

In India when right to property was one of the Fundamental Rights, requisitioning was provided in the Constitution on payment of an amount to be fixed by the law relating to the requisition of the property;[3] however this fundamental right was repealed with effect from 20.6.1979;[4] Art. 300-A of the Constitution provides that no person shall be deprived of his property save by authority of law.

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[1]Webster, p. 1237
[2]Basu, Vol. 'D', p. 277
[3]Art. 311 repealed
[4]Constitution (Forty-fourth Amendment) Act, 1978

RES JUDICATA

A thing adjudicated; a case decided; a matter settled;[1] a final judgement already decided between the same parties or their privies on the same question by a legally constituted court having jurisdiction is conclusive between the parties, and the issue cannot be raised again.[2]

Petitions to the Supreme Court under Article 32 and to the High Court under Article 226 are subject to the rule of *res judicata.*[3] However, the application of the doctrine of *res judicata* to the petitions filed under Article 32 does not in any way impair or affect the content of the fundamental rights guaranteed to the citizens of India. It only seeks to regulate the manner in which the said rights could be successfully asserted in courts of law.[4]

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[1]Dictionary of Law by Anderson, p. 31
[2]Wharton's Law Lexicon, p. 875
[3]Daryao *v.* State of U.P. A.I.R. 1964 S.C. 1457
[4]Amalgamated Coalfields *v.* Janapad Sabha A.I.R. 1964 S.C.1013 at p. 1018

RESIDUARY POWERS

The powers conferred on the Speaker to regulate matters not specifically provided for in the rules as well as questions relating to the detailed working of the rules.[1]

In the House of Commons, the Standing Orders do not expressly confer such powers on the Speaker;[2] however, when unforeseen situations arise and circumstances change, the Speaker is either asked by the House to give a ruling or he would himself volunteer to do so; after careful consideration the Speaker would make a statement to the House that he proposed to make modifications in Parliamentary Practice on the matter in question for the general convenience of the House; in case no general agreement emerges, consultation with Party Leaders is held and a 'common-sense' conclusion is arrived at meeting the general wishes of the House.[3]

Residuary powers have been conferred on the Speaker of Lok Sabha under the Rule. The authority of the Indian Speaker is wider than that of any other Speaker in the Commonwealth.[4] By virtue of these power the Speaker issues directions from time to time for the detailed working of the rules and also regulating the matters not provided for therein; for example, a direction by the Speaker has laid down that the answers to questions given in the House shall be completed and, as far as possible, each part shall be answered separately.[5]

Further, the Speaker gives private decisions on specific matters which arise from time to time; these are given on departmental files.

Besides, the Speaker has inherent powers. He can, in certain special cases, allow motions to be moved or withdrawn which are not covered by the rules; he can order expunction of words from the proceedings on any ground not provided for in the rules; he can also revise or modify a decision given by him earlier.[6]

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[1]Rule 389 of the Rules of Procedure & Conduct of Business in Lok Sabha.
[2]A conclusion reached after reading May, Basu and the Office of the Speaker by Philip Laundy.
[3]Lord Morrison in Govt. and Parliament as quoted by Philip Laundy in Office of Speaker in Parliaments of the Commonwealth; p. 96
[4]The Office of Speaker in Parliaments of the Commonwealth by Philip Laundy, p. 184
[5]Direction 13A (1)
[6]Kaul & Shakdher, pp. 946 & 947

RESIGNATION

Act of giving up;[1] document conveying resigning of an officer;[2] act of giving up an office;[3] implies that the party resigning has been elected to the office which he resigns: a man cannot 'resign' that which he is not entitled to.[4]

A member wishing to resign his seat from Lok Sabha or Rajya Sabha has to address the resignation to the Speaker or Chairman under his hand. No ground to be mentioned and if mentioned can be ignored by the Speaker.[5] Speaker accepts resignation of a member if it is voluntary and genuine,[6] informs the House about acceptance of resignation of a member as soon as may be or if the House is not in session, informs the House immediately after the House reassembles;[7] intimation of resignation also published in Gazette and a copy forwarded to Election Commission;[8] becomes effective only after it is received in Lok Sabha Secretariat and from the date mentioned in the letter. If the letter does not bear a date, it becomes effective from the date received in Lok Sabha Secretariat.[9] A member may withdraw his resignation before it is accepted by the Speaker.[10]

If Speaker wishes to resign, he has to address his resignation to Deputy Speaker or if Deputy Speaker wishes to resign, he has to address his resignation to the Speaker.[11]

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[1]Chamber's Dictionary, p. 846
[2]Oxford Dictionary, p. 1059
[3]Dictionary of Law by Anderson, p. 893
[4]Stround, Vol. 3, p. 2299
[5]Rule 240(1) (Lok Sabha)
[6]Rule 240(1A) (Lok Sabha)
[7]Rule 240(2) (Lok Sabha)
[8]Rule 240(3) (Lok Sabha)
[9]Dir. 47(B) (Lok Sabha)
[10]Rule 240(1c) (Lok Sabha)
[11]Art. 94(1) & Kaul & Shakdher, p. 98

RESOLUTION

A formal statement of opinion or determination adopted by an assembly or other group of persons;[1] formal expression of opinion by legislative body or public meeting;[2] a solemn judgement or decision;[3] the expression of the opinion of the legislative body with reference to some subject or a declaration of its intention to do something.[4]

In the House of Commons, certain measures can be taken only through resolutions; for example, Ways and Means (provision of revenue to meet national expenditure) can be initiated only by a resolution;[5] similarly, the Finance Bill is founded on budget resolutions;[6] besides sessional resolutions relating to procedure are passed by the House, these resolutions provide one of the bases of Practice.[7]

Three kinds of resolutions are moved in the Indian Parliament, namely the resolutions which are a mere expression of opinion by the House, Statutory Resolutions and resolutions concerning the matters of procedure in the House.[8]

Some of the conditions of admissibility of a resolution are:

(i) it shall be clearly and precisely expressed;

(ii) it shall raise substantially one definite issue;

(iii) It shall not contain arguments, inferences, imputations, defamatory statements or ironical expressions;

(iv) it shall not refer to the conduct or character or persons except in their official or public capacity;

(v) it shall not relate to a matter which is *sub judice*.[9]

Resolution—Statutory: A resolution tabled in pursuance of a provision in the Constitution or an Act of Parliament;[10] notice of the resolution may be given either by a Minister or by a Private Member; normally the period of notice is provided for in the Constitution or the enactments.[11]

In British Parliament, Statutory resolutions are brought in and passed approving statutory instruments (subordinate legislation) as per stipulations in

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[1]Webster, p. 1239
[2]Oxford, p. 1059
[3]Wharton's Law Lexicon, p. 875
[4]*A Parliamentary Dictionary*, Abraham & Hawtrey, p. 176
[5]May, p. 776
[6]*Ibid* p. 788
[7]*Ibid*, p. 6
[8]Kaul & Shakdher, p. 640
[9]Rule 173 (Lok Sabha)
[10]Kaul & Shakdher, p. 652
[11]*Ibid*, p.652

the Parent Act; the time by which such resolutions should be passed by either House or both Houses is also provided for in the Acts; Statutory resolutions are also passed for the continuance of regulations made under the Emergency Powers Act, 1920.[12]

In Indian Parliament, Statutory resolutions are moved under the provisions of the Constitution as well different Acts of Parliament. Statutory resolutions for the purposes of impeachment of the President, removal of the Vice-President, Deputy Chairman of Rajya Sabha and the Speaker and Deputy Speaker of Lok Sabha, disapproval of the ordinances promulgated by the President, approval of proclamation of Emergency etc. are moved under the provisions of the Constitution. Statutory Resolutions seeking approval of rules or notifications issued under an Act are moved under relevant provisions of the Act which rquire such approval.

Resolution—Government: Resolution moved by a Minister in the Government.

Government Resolutions in the House of Commons are brought in by a Minister of the Crown. These are passed to bring in some of the Government Bills of which the Finance Bill is the most notable example; it is also customary to pass a money resolution after the second reading of most of the Government Bills which authorizes the Government to incur expenditure in relation to the matters covered by the Bill.[13]

In Indian Parliament too a Government resolution is brought in by a Minister. Government resolutions fall mainly into three categories, namely (i) resolutions approving international treaties, conventions or agreements.etc., (ii) resolutions declaring or approving certain policies of the Government and (iii) resolution approving the recommendations of certain committees.

Resolution—Private Members': Resolution relating to matters of general public interest moved by Members other than Ministers in the House normally on Fridays or other allotted days.

In the House of Commons, out of a total of 21 Fridays allotted for Private Members' business, 9 days are allotted for motion (resolutions); besides, four days other than Fridays are also allocated for the discussion on Private Members' motions.[14]

In the Lok Sabha, the last two and a half hours of a sitting on alternate Fridays starting from the second Friday of the session are allotted for discussion of private members' resolutions. A Member who desires to move a resolution has to give, in the first instance, notice to that effect addressed to the Secretary-General at least two days before the date of the ballot.[15]

(For details *see* under Private Members' Business).

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[12]May, pp. 273 & 582
[13]May, p. 301
[14]May, p. 294
[15]Kaul & Shakdher, p. 646

RIGHT OF REPLY

The right of a member who has moved a motion in the House to reply to the debate thereon. In the House of Commons, the right of reply is allowed to a Member who has moved a substantive motion for the adjournment of the House. However, Member who moves an order of the day can only reply with the unanimous agreement of the House.[1]

In the Lok Sabha too, the mover of a substantive motion has the right of reply. He gets two opportunities to speak, first while moving the motion and again while replying to it. If the motion is moved by a Private Member, the Minister concerned may, with the permission of the Speaker, speak (whether he has previoulsly spoken in the debate or not) after the mover has replied. A member is not permitted to reply on behalf of another; the right of reply does not extend to the mover of an amendment to a Bill or a resolution; the Speaker, however, can permit them to reply.[2]

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[1]May, p. 376
[2]Kaul & Shakdher, p. 922 & Rule 358(3) (Lok Sabha)

RULE

Well regulated condition, principle standard, code of regulations;[1] established guide or regulation for action, conduct;[2] made in exercise of a power conferred by any enactment; also includes a regulation made as a rule under any enactment.[3] Rules made under an Act have statutory force.[4]

[1]Chamber's p. 869
[2]Webster's p. 1274
[3]Sec. 3(51), G.C.A.
[4]Kaul & Shakdher, p. 539

RULE OF LAW

Absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power; equality before the law or the equal subjection of all classes to the ordinary law courts, constitution is the result of the ordinary law of the land;[1] also called the supremacy of law; a significant Anglo-American doctrine implying that no man is punishable or can be lawfully made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary court of the land;[2] occasionally used to mean something more than existence of public order and habitual observance of law.[3]

Executive instructions cannot override the provisions of law; such a method will destroy the very basis of the rule of law;[4] the binding character of judgments pronounced by courts of competent jurisdiction is itself an essential part of the rule of law, and the rule of law obviously is the basis of the administration of justice on which Constitution lays emphasis;[5] Constitution has endowed wide powers to the High Courts and the Supreme Court under Art. 226 and 32 for the preservation of the rule of law.[6]

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[1]Dicey, pp. 202-203
[2]Dunner, p. 464
[3]UNESCO, p. 611
[4]Munna Lal Jain *v.* State of Assam, AIR 1962, SC 386 at p. 393
[5]Daryo *v.* State of U.P., AIR 1961, S.C. 1457 at p. 1462
[6]State of U.P. *v.* Mohd. Nooh, 1958, S.C.R. 595

RULER

A person who rules or governs.[1]

The Prince, chief or other person who was recognised by the President of India as Ruler of an Indian State before the Commencement of the Constitution (Twenty-Sixth Amendment) Act, 1971; included the successor of such Ruler.[2]

[1]Webster, p. 1274
[2]Art. 366(22)

RULES OF THE HOUSE, ABUSE OF

The use of Rules of a Legislature by its members for an improper purpose. For example, when a member who has been speaking on a question, concludes his speech by moving the closure motion to prevent a fuller discussion on it, it is an abuse of the Rule of the House.[1]

[1]Abraham & Hawtrey, p. 2

RULES OF PROCEDURE

Rules which regulate procedure, debate and the conduct of members in a Legislature.[1]

In British Parliament, the greater part of the rules are unwritten, to be collected from the journals or reports of debates, or to be ascertained from personal experience; the written part constitutes a very small portion of the corpus of the rules; this consists of standing orders. Standing orders can be amended, repealed or suspended.[2]

The rules of Procedure are drawn from four sources, namely: (i) Practice, (ii) standing orders and occasional orders and resolutions of either House, (iii) rulings from the Chair, and (iv) Statute Practice is also called 'ancient usage' and needs no authority other than proof of its *de facto* existence; standing orders have to be read in conjunction with the practice of the House; these have an express duration beyond the end of the House; however, the sessional orders and resolutions have a duration limited to that of the session in which they are made. The rulings from the Chair constitute the case law of the House of Commons (there are no rulings from the Chair in the Lords). Examples of statutory modification of procedure are very rare; some of these statutes prescribe common procedure for both Houses and the procedure to deal with disagreement between the two Houses.[3]

A statute overrides an order or regulation of one House or of both jointly; a sessional order can set aside a standing order; any form of express order takes precedence of a rule of Practice.[4]

Rule making power of British Parliament is absolute[5].

In India, the Constituent Assembly Rules of Procedure and Conduct of Business in force immediately before the commencement of the Constitution were modified and adopted by the Speaker of Lok Sabha in exercise of the powers conferred on him by Article 118(2) of the Constitution;[6] the rule-making powers of the Houses of Parliament are not absolute; these are limited by the provisions in the Constitution; the Courts can interfere with the Rules if they are contrary to the Constitution.[7]

Each House has the absolute right of interpreting its Rules; courts have no power to interfere in the matter of the application of these relating to the internal management of the House.[8]

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[1]Wilding & Laundy, p. 723
[2]May, pp. 4 & 5
[3]*Ibid*, pp. 210 and 4-7
[4]*Ibid*, p. 8
[5]Basu; 6th edn., Vol. G, Art. 118(1), p. 121
[6]Preface to the Rules of Procedure and Conduct of Business in Lok Sabha
[7]Art. 118(1) of the Constitution and Basu, sixth edn., Vol. G, pp. 121-22
[8]Basu; (6th edn.), Vol. G, p. 122

Rules can be amended by the House any time; it is done on the recommendations to this effect by the Rules Committee.

(For details *see* under that entry).

Rules are supplemented by precedents as the former cannot anticipate all possible situations and provide a solution for all problems; the decisions of the presiding officers constitute precedents which are followed when Rules are either silent or require clarification.[9]

[9] *Ibid.*, p. 122

RULE-MAKING CLAUSE

The clause in a Bill which delegates the power to the Executive to make rules and regulations for administering the various provisions contained in the same.

In British Parliament, the Acts provide for rules which are called statutory instruments;[1] these are to be laid before Parliament for its scrutiny.[2]

In Indian Parliament too, all Bills involving delegation of powers contain a rule-making clause which *inter alia* provides in the Act that every rule made under the rule making clause shall be laid before each House of Parliament for its scrutiny and that each House has the power to suggest modification or annulment of a rule.[3]

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[1]May, p. 576
[2]*Ibid,* p. 576
[3]Kaul & Shakdher, p. 539

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SAVING CLAUSE

A clause in a bill which seeks to repeal another enactment; it is inserted to protect or save a person as regards the rights which he may have acquired under the repealed enactment and also to protect any action duly done under that Act.[1]

Both in U.K. and India, the saving clause is inserted in a bill which seeks to repeal a previous enactment. This clause is placed invariably at the end of the bill.[2]

[1]Kaul & Shakdher, p. 540
[2]May, p. 494 & Kaul & Shakdher, p. 540

SCHEDULE

Tabulated statement of details, inventory, list etc., especially as appendix or annexure to principal document;[1] a list, catalogue, or inventory of details, often as an explanatory supplement to a will, bill of sale, deed etc.;[2] a part of a Bill or the Constitution which contains matters of details dependent on the clauses thereof; the provisions of schedule are caried into effect by means of these clauses;[3] the schedule is treated in the same manner as any clause of the Bill and is put to the vote of the House.[4]

In the House of Commons, when a Bill is under consideration, the schedule is taken up after all the clauses and new clauses have been considered; this order may be changed by moving a motion to that effect and the schedule may be considered after the clause to which it is related. A schedule can be amended like any clause; new schedule can also be moved and considered.[5]

In India too, some of the Bills have schedules appended to them which contain matters of detail. For example, when the constitution of an organisation is declared in the Bill, the mode of appointment and rules governing meetings of that organisation are placed in a schedule; if there are more than one schedule, they are described as First Schedule, Second Schedule and so on.

The Schedule is as much a part of the statute and as much an enactment as any other part; it must be read together with the Act for all purposes of construction.[6]

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[1]Oxford, p. 1125
[2]Webster, p. 1303
[3]May, p. 494
[4]*Ibid*, p. 563
[5]*Ibid*, pp. 550 & 563
[6]Kaul & Shakdher, p. 540-541

SCHEDULED CASTES

Certain Castes, races, tribes or groups within them in any State or Union Territory of India notified by the President under Constitution (Scheduled Castes) order, 1950 and Constitution (Scheduled Castes) Union Territory order, 1951 under Article 341 (1) of the Constitution of India for providing additional protection to members of these Castes taking into account the economic and educational backwardness from which they suffer[1] for belonging to a Scheduled Caste, a person must profess Hindu or Sikh religion;[2] when a member of Scheduled Caste embraces another religion, he ceases to be Scheduled Caste and does not enjoy Constitutional Privileges conferred on Scheduled Castes.[3] The President is empowered to declare a group within a caste as Scheduled Caste if that group is educationally or socially backward; President may also specify a Caste from a particular area of a State to be declared as a Scheduled Caste for providing additional protection to those persons in that area;[4] inclusion or exclusion of other Castes in/from the list of Scheduled castes specified in notification issued under Article 341(1) can be done only by a law passed by Parliament.[5]

Constitutional Privileges conferred on Scheduled Castes include consideration of claims of members of Scheduled Castes while making appointments to Central and State Government services;[6] promotion of their educational and economic interest and their protection from social injustice and exploitation;[7] reservation of certain number of seats for them in Lok Sabha and State Legislative Assemblies in proportion to their population in States;[8] appointment of a Minister to look after the welfare of Scheduled Castes in certain States;[9] appointment of the National Commission for Scheduled Castes to investigate and monitor all matters relating to the constitutional safeguards provided to SCs to inquire into their complaints regarding deprivation or rights etc., to present to the President reports upon the working of those safeguards.[10]

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[1]Basu, Vol. N, p. 149
[2]Para 3 of Constitution (SC) Order, 1950
[3]Basu, Vol. N, p. 152
[4]Art. 341(1) and Basu, Vol. N, pp. 148-149
[5]Art. 341 (2)
[6]Art. 335
[7]Art. 46
[8]Art. 330, 332
[9]Art. 164(1) Proviso
[10]Art. 338

SCHEDULED TRIBES

Certain tribes or tribal communities or groups within them in any State or Union Territory of India notified by the President in the Constitution (Scheduled Tribes) Order, 1950 and the Constitution (Scheduled Tribes) Union Territories Order, 1951 under Article 342(1) of the Constitution of India; the President specifies a tribe under these orders only on the basis of its being a tribe or tribal community or part of a group within a tribe or tribal community, no non-tribal community can be converted to a tribal community for the purpose of this order;[1] inclusion or exclusion of any other tribe, tribal community or part of a group within them in the notification issued under Article 342(1) can be done only by a law passed by Parliament;[2] election from a Scheduled Tribes constituency can be contested only by a candidate belonging to Scheduled Tribe as specified in Constitution (Scheduled Tribes) Order.[3]

Constitutional privileges conferred on Scheduled Tribes include consideration of claims of members of Scheduled Tribes while making appointments and promotions in Central or State Government services;[4] promotion of their educational and economic interest and their protection from social injustice and exploitation;[5] reservation of certain number of seats for them in Lok Sabha and State Legislative Assemblies in proportion to their population in the State or Union Territories;[6] appointment of a Minister to look after tribal welfare in certain states;[7] appointment of the National Commission for the Scheduled Tribes to investigate and monitor all matters relating to constitutional safeguards provided to STs, to inquire into their complaints regarding deprivation or rights etc., to present to the President reports upon the working of those safeguards.[8]

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[1]Art. 342(1) & Basu Vol. N, p. 156
[2]Art. 342(2)
[3]Basu, Vol. N., p. 157
[4]Art. 335
[5]Art.46
[6]Arts. 330, 332
[7]Art. 164(1) Proviso
[8]Art. 338 A. 1, 5a, b, d

SCHEDULED AND TRIBAL AREAS

Areas in any State other than Assam, Meghalaya, Tripura and Mizoram declared by the President in an order are scheduled areas;[1] President is empowered to take out or add certain areas from or to the scheduled areas and alter it for rectification of boundaries; [2] Tribes Advisory Council for advising on matters of welfare and advancement of Scheduled Tribes is set up in each State having a scheduled area or scheduled tribes under the direction of the President;[3] Governor is empowered to direct as to which laws made by Parliament or State legislature would or would not be applicable to scheduled areas; also empowered to make regulations for the peace and good government of any area in a State which is temporarily declared a scheduled area;[4] such regulations to be made with consultation of Tribes Advisory Council and come into force after receiving Presidential assent. [5]

Areas from Assam, Meghalaya, Tripura and Mizoram specified in Part I, II, IIA and III of the table appended to Para 20 of Sixth Schedule are tribal areas; their administration is governed by provisions of Sixth Schedule containing self-contained code for the governance of tribal areas. [6] Parliament is empowered to form by law within the State of Assam an autonomous State comprising areas specified in Part I of the table appended to Para 20 of Sixth Schedule and create local legislature or Council of Ministers or both for its governance[7] adminstration of autonomous districts and regions is vested in District and Regional Councils[8] respectively which are authorised to make laws in respect of their areas; to establish primary schools, to set up district and regional funds, to assess and collect land revenue and to impose taxes;[9] Parliament is empowered to amend Sixth Schedule without going through the process under Art. 368.[10]

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[1]Art. 244(1) & Fifth Schedule, Para 6(1)
[2]Fifth Schedule, Para 6(2) a & b of Constitution
[3]Fifth Schedule, Para 4(1) & (2)
[4]Fifth Schedule, Para 5(1&2)
[5]Fifth Schedule, Para 5 (4&5)
[6]Basu, Vol. J, p. 69
[7]Art. 244A(1)
[8]Sixth Schedule, Para 2 (1) & (2)
[9]Sixth Schedule, Paras 3, 6, 7, 8
[10]Sixth Schedule, Para 21 (1 &2)

SECRETARY

An official in charge of a Department of Government[1].

In India, each Department of Government of India is under the administrative charge of a Secretary; generally a senior officer belonging to the Indian Administrative Service.

[1]Webster, p. 1317

SECTION

A division: a portion: one of the parts into which anything may be considered as divided or which it may be built up;[1] section of the Act or Regulation in which the word occurs.[2]

[1]Chambers, p. 900
[2]Sec. 3 (54). G.C.A.

SECURITY

A pledge: a surety: a guarantee: a right conferred on a creditor to make him sure of recovery;[1] an instrument which guarantees the certainty of some specific thing, as, payment or performance.[2]

[1]Chambers, p. 930
[2]Anderson. p. 930

SELECT COMMITTEE ON BILL(S)

A Parliamentary Committee composed of member specially named and appointed from time to time to consider, inquire into or deal with Bills.[1]

In British Parliament, Select Committee is composed of members who are named by the House upon the motion of a Member of the Government;[2] the order of reference of Select Committee on a Bill is the Bill itself which is referred to it and the Committee confines its deliberations and inquiries to the Bill and amendments relevant to its subject;[3] the Select Committee, after taking evidence, considers clauses and amendments; the Chairman usually prepares a draft report which is circulated to the members; the report is considered by the Committee paragraph by paragraph and then adopted.[4] If the Select Committee agrees upon its report, the Chairman or any other member makes a report to the House. The Clerk on behalf of the Chairman presents the report to the House.[5] The conclusions agreed to by the majority are the conclusions of the Committee and the report of the Committee is not accompanied by memorandum of dissent; a member who does not agree with certain paragraphs in the report, or the entire report can record his disapproval by dividing the Committee against the paragraphs, he objects to or the entire report as the case may be and can put or record his observations and conclusions by proposing an alternative draft report or moving an amendment to the question for reading the draft report for the second time.[6]

The Select Committee on a Bill may report the Bill to the House with or without amendment or point out any matter pertaining to the Bill by making a special report to the House; when a Bill which has not been read a second time is referred to the Select Committee, it does not go through it clause by clause; it only goes into merits of the Bill, Select Committees also consider hybrid bills, Private Bills and provisional order Bills.[7]

In Indian Parliament, an *ad hoc* Committee appointed on a motion specifying names of members adopted by the House for consideration of a particular Bill referred to it; appointed at the first stage of the second reading of a Bill in the House; the motion of reference of a Bill to Select Committee may be moved either by the member-in-charge of the bill or by any other members;[8] its membership varies from 30 to 45 and reflects strength of parties and groups in the House;[9] It considers bills referred to it clause by

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[1] May, p. 628
[2] *Ibid,* p. 629
[3] *Ibid,* p. 633
[4] *Ibid,* pp. 663, 664, 665
[5] *Ibid,* p. 667
[6] *Ibid,* p. 666
[7] *Ibid,* pp. 686, 558, 905
[8] Kaul & Shakdher, p. 787
[9] *Ibid,* p. 788

clause to see that provisions of the Bill fulfil the intention behind the measure;[10] hears expert evidence and representatives of special interest affected by the bill before them,[11] after taking oral evidence the Chairman puts the Bill for clause-by-clause consideration and members of the Committee are invited to make their comments/suggestions and also to move their amendments given notice of in order to see that no procedural defect in its working is left therein so that the object proposed to be achieved is adequately brought out;[12] Draft report of the bill is prepared and circulated to the members; the draft report and the bill as amended are considered by the Committee and adopted;[13] a member who disagrees with the report may append minute of dissent;[14] The report of the Committee is presented to the House by Chairman or any other Member of the Committee in his absence.[15] After presentation of the report the Committee becomes *functus officio.*[16]

[10] *Ibid,* p. 792
[11] Rule 302 (Lok Sabha)
[12] Kaul & Shakdher, p. 796
[13] *Ibid,* p. 800
[14] Rule 303(4) (Lok Sabha)
[15] Rule 304 (Lok Sabha)
[16] Kaul & Shakdher, p. 791

SELF-INCRIMINATION

To admit that one is guilty of a crime.

No person accused of any offence can be compelled to be a witness against himself.[1]

The protection against self-incrimination confines itself to a person accused of an offence and does not include the cases of witnesses. What is protected is compulsory self-incrimination which may result in punishment for crime.[2]

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[1]Art. 20(3)

[2]People' Insurance Co. *V.* Sardar Singh, A.I.R. 1962, Punjab, 101, pp. 107 and 108

SERVICE OF LEGAL PROCESS

Serving the defendant with a summons or writ issued by virtue of and pursuant of law.[1] Under the law of Parliament service of a legal process on its Members within the precincts of the House when it sits constitutes a breach of privilege of the House.[2]

In U.K., the service of any process; civil or criminal, either upon a Member or any other person within the precincts of the House when it is sitting or is to sit constitutes a breach of privilege unless the leave of the House is obtained through the Speaker; however, the process can be served on a Member within the precincts of the House when it is not sitting or during its periodical recesses.[3]

In India, the service of legal process, civil or criminal, is prohibited within the precincts of the House without obtaining the permission of the Speaker[4]. Though the immunity of a Member from arrest does not extend to arrest under criminal law, no arrest can be made or other process under criminal law served within the precincts of the House without the permission of the presiding officer. A violation of this privilege constitutes a breach of privileges of the House.[5] The permission of the Speaker is necessary whether the House is in session or not.[6] The Govt. of India have issued instructions to the authorities concerned to the effect that courts of law should not seek to serve a legal process, civil or criminal, on Members of Parliament through the Speaker or the Secretariat. The appropriate procedure is for the summons to be served direct on Members concerned outside the precincts of Parliament.[7]

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[1]Oxford, p. 974; Anderson, p. 817
[2]Basu, 4th edn.; Vol. 2; p. 596
[3]*Ibid*, p. 596
[4]Rule 233
[5]Basu, P. 597
[6]Kaul & Shakdher, p. 253
[7]*Ibid.*, p. 220

SESSION

The time between the meeting and prorogation of Parliament;[1] a period of time between the meeting of a Parliament, whether after a prorogation or a dissolution, and its prorogation.[2]

A session connotes the sitting together of the legislative body for the transaction of business.[3]

[1]Chambers, p. 911
[2]May, p. 231
[3]Saradhkar *v.* Orissa Legislative Assembly, A.I.R. 1952, Orissa 234 at p. 236

SITTING(S)

Time during which one sits continuously;[1] a session or meeting;[2] time during which a Legislative House sits continuously.

The House of Commons normally sits on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays; on the first three days the House meets at half-past two and adjourns not more than half-an-hour after the moment of interruptions at ten O'clock. On Wednesdays the House meets at half-past nine and between then and two O'clock proceed with a motion of adjournment. The House does not sit on ten Fridays in each session to be appointed by the House. The House can sit beyond the normal moment of interruption at ten (or on Fridays at half-past two) O'clock. Sittings on Saturday and Sunday can be secured only by a resolution of the House;[3] these sittings are held on the demise of the Crown or on occasions of emergency.[4]

If the House sits past the hour of sitting on the following day, no independent sitting for that day is held. On several occasions abnormally long sittings were held which lasted for upwards of 24 hours without adjourning.[5]

A sitting is closed with the passing of an adjournment motion, 'that this House do now adjourn' moved by a Member of the Government; it is moved at ten O'clock on Monday, Tuesday, Wednesday and Thursday and at half past two O'clock on Friday; the sitting is occasionally suspended without any such motion with the intention of resuming the transaction of business at a later hour; it occurs always on the opening day of a session.[6]

A sitting of the Lok Sabha ordinarily commences at 11.00 hours and concludes at 18.00 hours with a lunch break for one hour, normally between 13.00 hours and 14.00 hrs. The days of sittings are fixed as per the direction of the Speaker from time to time.[7] A sitting is validly constituted when it is presided over by the Speaker or any other Member competent to preside under the Constitution and rules.[8]

The House ordinarily sits on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays; normally no sitting is fixed on Saturdays; however, in order to cope with the pressure of Govt. business sometimes sittings are fixed on Saturdays too; also, if the last working day in February happens to be a Saturday or a closed or Parliamentary holidays, a sitting may specially be

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[1]Oxford, p. 1193
[2]Webster, p. 1364
[3]May, pp. 248-266
[4]*Ibid,* p. 248
[5]*Ibid,* pp. 250-251
[6]Wilding & Laundy, p. 8 & May, pp. 277 & 250
[7]Rules 12 & 13 (Lok Sabha)
[8]Rule 11 (Lok Sabha)

fixed at 17.00 hrs. on that day for the presentation of the General budget; in special cases a sitting may be fixed on a holiday along with the summons a calender of sittings is issued to the Members.[9]

Quorum to constitute a sitting of the House is one tenth of the total number of members of the House.[10]

In Lok Sabha unlike the practice followed in the House of Commons, the day's sitting concludes at 6. P.M. or at a later hour as the House may decide by an announcement made by the Speaker or the person presiding over the House in the following words:

"The House stands adjourned to reassemble on ..... at 11.00 A.M.[11]

A sitting of Lok Sabha may be called by the Speaker before the date or hour to which it has been adjourned or at any time after the House has been adjourned *sine die.*[12]

A secret sitting of the House may be held on a request from the Leader of the House; the Speaker may fix a day or part thereof for such a sitting.[13]

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[9]Kaul & Shakdher, p. 391
[10]Art. 100(3)
[11]Kaul & Shakdher, p. 400
[12]Kaul & Shakdher, p. 400
[13]Rule 248 (Lok Sabha)

SITTING OF THE COUNCIL

Sitting of the Council of States, A sitting of the Council is duly constituted when it is presided over by the Chairman or other member competent to preside over a sitting of the Council.[1] The sittings take place on such days and conclude at such hour as the Chairman, keeping the business of the council in mind, may direct,[2] the Chairman can also adjourn the Council or suspend any sitting for a time to be named by him.[3]

[1]Rule 10 (Rajya Sabha)
[2]*Ibid,* Rules 11 & 12
[3]*Ibid,* Rule 257

SPEAKER

The Officer Presiding over any of the various law-making bodies;[1] elected by the members of such bodies from among themselves; the principal Presiding Officer of the Lower House of Parliament.

The office of the Speaker is very ancient and honourable and is an essential feature of the parliamentary system.[2] Speaker is the guardian of the privileges of the House. His function is to regulate debate and enforce the observance of the rules which govern its conduct. He is also representative of the House in its external relations. The quality most essential to the Speaker is strict impartiality. He is also vested with wide discretionary powers. His rulings constitute precedents which guide the future Speakers. Great privilege is attached to this office; his authority is recognised and respected by members on all sides of the House.[3]

The House of Commons has an unbroken tradition of Speakers dating back to 1377; earlier presiding officers were known as 'Parlour', 'Prolocutor,' 'Procurator' etc. The first Speaker of the House of Commons designated as such was Sir Thomas Hungerford. The Chief function of the Speaker of the Commons in ancient times was to act as the mouth piece of the Commons and to communicate their resolutions to the King.[4]

The Speaker of the House of Commons is the representative of the House itself in its powers, proceedings and dignity. His functions are (i) to preside over the debates of the House of Commons (ii) to act as the spokesman or representative of the House in its relations with the Crown, the House of Lords and other persons outside Parliament;[5] It is the duty of the Speaker to preserve the orderly conduct of debate in the House; he represses disorder whenever it arises. As a symbol of his authority he is accompanied by the Royal Mace which is borne before him when entering and leaving the Chamber and upon State occasions. He takes no part in the debate and votes only when the voices are equal.[6]

The Speaker leads the Commons when summoned to attend the Queen in the House of Lords; reads written messages from the Queen and presents bills of aids and supplies for the Royal Assent; by order of the House issues writs to the Clerk of the Crown for the election of new members; communicates the resolutions of the House to the concerned outside and conveys its thanks

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[1]Webster, p. 1398
[2]Wilding & Laundy, p. 703
[3]*Ibid,* p. 704
[4]*Ibid,* pp. 707-708
[5]May, p. 188
[6]May, p.190

and expresses its censure, its reprimands and its admonitions, issues warrants to execute the orders of the House.[7]

The Speaker enjoys a number of discretionary powers in respect of certain business in the House; he also has administrative duties, such as the control of the accommodation and services in the part of the Place of Westminster occupied by the House of Commons.[8]

The Speaker is elected by the House, but his election is subject to the approbation of the Queen.[9] When the House is dissolved the then Speaker continues in office until a new Speaker is chosen by the new Parliament;[10] once elected the Speaker sheds his previous political affiliation and becomes totally impartial. At general elections, he stands as "Speaker seeking re-election and as a practice his seat is not contested by major political Parties.[11]

Lord Chancellor is the Speaker of the House of Lords *ex officio;* he is not invested with special powers as Speaker to maintain order or to act as the representative or mouth piece of the House unless the House confers the necessary authority upon him and is appointed by the Queen. He is a peer or recieves peerage on appointment. He is a senior member of the Government with Ministerial and judicial functions.[12]

In India, the office of the President as he was called till 1947, dates back to 1921 when the Central Legislative Assembly was constituted for the first time. The first President Sir Frederick Whyte was appointed by the Governor-General of India. The rule regarding election of the President was made in 1925. The election was subject to the approval of the Governor-General. Shri Vithalbhai J. Patel was the first elected President of the Central Legislative Assembly.

The office of the President was designated as the speaker after independence in 1947. Shri G.V. Mavalankar was the first elected Speaker of the Constituent Assembly (Legislative) which later became the Provisional Parliament. The election of the Speaker is no longer subject to the approval of the President.

The Speaker is the Principal Presiding Officer of the Lok Sabha. He is chosen by the House from among its Members by a simple majority of members present and voting.[13] Within the walls of the House his authority is supreme, which is based on his absolute and unvarying impartiality.

The Speaker is the principal spokesman of the House and he represents its collective voice and is its sole representative to the outside world; communications from and to the President are made through him.[14]

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[7] *Ibid,* pp.188-187
[8] *Ibid,*pp.191-192
[9] *Ibid,* p.188
[10] *Ibid,* p.192
[11] Laundy, p. 64 and May, p.190
[12] May, pp.184-11
[13] Art. 93
[14] Kaul & Shakdher, p.113

The Speaker regulates the debates and proceedings of the House; he maintains order in the House and is equipped with all the necessary powers in this regard; he is empowered to adjourn the House from day-to-day and *sine die.*[15]

The Speaker of Lok Sabha has to power to decide finaly whether a Bill is a money bill;[16] he presides over the joint sittings of the two Houses;[17] he has a casting vote.

Wide descretionary powers have been conferred on the Speaker by the rule of the House. He determines the order in which Members shall sit in the House;[18] he is empowered to recognise parliamentary parties and groups in the House; has the final authority to decide whether a member of the House has incurred disqualification under the anti-defection law.

The Speaker decides, the admissibility of Questions, Resolutions, Amendments *etc;* he is in supreme control of all Parliamentary Committees; he appoints their Chairman;[19] his consent is necessary for the presentation of Petitions, for calling the attention of a Minister to a matter of urgent public importance; his consent is required for a Minister to make a statement explaining his resignation or for a member to make a personal explanation.[20]

The Speaker has the right to interpret the Constitution and rules in so far as they concern the House; his rulings constitute precedents and cannot be challenged except on a substantive motion.[21]

The authority of the Speaker of Lok Sabha is wider than that of any other Speaker in the Commonwealth.[22] He enjoys residuary and inherent power (for details *see* under 'Residuary Powers').

The Speaker of Lok Sabha is the *ex-officio* President of the Indian Parliamentary Group.[23]

The Speaker continues in office till immediately before the first meeting of Lok Sabha after the dissolution of the one to which he was elected, unless he ceases to be a member by any reasons specified in the constitution of India.[24] He can be removed from his office if a resolution to that effect is passed by a majority of all the then Members of the House.[25] For moving the resolution, a notice of at least fourteen days has to be given.

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[15] *Ibid,* p.116
[16] Art.110(3)
[17] Art.118(4)
[18] Rule 4 (Lok Sabha)
[19] Laundy, pp. 182-183
[20] Kaul & Shakdher, pp. 117-118
[21] *Ibid.,* p. 120
[22] Laundy, p. 184
[23] Kaul & Shakdher, p. 121
[24] Art. 94
[25] *Ibid*

SPEAKER PRO TEM

A Member of the House of the people is appointed to perform the duties of the office of the Speaker when the offices of both the Speaker and the Deputy Speaker are vacant;[1] the Speaker *pro tem* continues in office till the Speaker is elected.[2]

In U.K., no Speaker *pro tem,* as such is appointed for the House of Commons; however, when the House proceeds to elect the new Speaker, the Chair is taken by the Member who has served for the longest period continuously as a Member of the House; he is granted all the powers which would be exercisable by the Speaker if he were presiding over the election of his successor; he sits, however, not in the Speaker's Chair, but at the Clerk's place at the Table.[3] In the Lords, if the Speaker, the Deputy Speaker and the Deputy Chairman are not present, a Speaker *pro tempore* is chosen by the House.[4]

The Speaker *pro tem* of the Lok Sabha is appointed by the President.[5] The name of a Member who has normally served for the longest period as a Member of the House is suggested by the Prime Minister for appointment as the Speaker *pro tem.*

Appointment of Speaker *pro tem* becomes necessary as the Office of the Deputy Speaker falls vacant on the dissolution of Lok Sabha and that of the Speaker becomes vacant immediately before the first meeting of a new Lok Sabha.[6]

The first sitting of a newly elected Lok Sabha after the general election is presided over by Speaker *pro tem;* Members make and subscribe an oath or affirmation before him.[7] Oath is administered to the Speaker *pro tem* as a Member of Lok Sabha by the President in the Rashtrapati Bhawan and he signs the Roll of Members immediately on taking the Chair which signifies his taking seat in the House.[8] He vacates office soon after the Speaker is chosen by the House.

The Speaker *pro tem* enjoys all powers of the Speaker under the Constitution and the Rules of Procedure.[9]

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[1]Kaul & Shakdher, pp. 107
[2]*Ibid*, p. 107
[3]May, p. 237
[4]*Ibid*, p. 184 and Abraham Hawtrey, p. 194
[5]Art. 95(1)
[6]*Ibid*
[7]Art. 99 & Kaul & Shakdher, p. 107
[8]Kaul & Shakdher, p. 107
[9]*Ibid*, p. 108

SPEAKER'S EYE, CATCHING THE

A well-established Parliamentary practice to attract the attention of the Speaker in order to be called to speak. When several members of the House rise, hoping to catch the Speaker's eye, it is the Speaker who decides and whom his eyes see first is given precedence.[1]

In the House of Commons, a member wishing to speak has to rise in his seat or has to merely present himself to the notice of the Speaker or he has to address the Speaker by his title as 'Mr. Speaker'; in theory, the member who catches the Speaker's eye first will get precedence;[2] however, in practice the Speaker uses his discretion in calling the members to speak, taking into account the wish of the House and the right of all sections of opinion of a fair measure.[3]

In Lok Sabha, a member who wishes to participate in a debate or discussion can either have his name communicated to the Speaker through his party whip; or he may write direct to Speaker; or may catch the Speaker's eye. Names furnished by parties/groups/individuals are only for Speaker's guidance and do not, in any way, curtail right of Speaker to select members for well-regulated and balanced debate. In any case, a Member has to catch eye of Speaker and wait for his turn. One who is allowed to speak is deemed to have caught the Speaker's eye. A Member who tries to catch the Speaker's eye by shouting or who does not stick to his seat may not be called. A member who is absent or inattentive and does not respond when called upon to speak, looses his chance. One who is not called upon to speak has no right to protest against the decision of the Speaker.[4] A member whose name is proposed to serve on a Joint or Select Committee does not try to catch the Speaker's eye on the motion for reference of a Bill to that Select Committee.[5]

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[1]Wilding & Laundy, p. 81
[2]Abraham & Hawtrey, p. 50
[3]Wilding & Laundy, p. 81
[4]Direction, 115 A and Kaul & Shakdher, p. 914
[5]Kaul & Shakdher, p. 914

SPECIAL LEAVE TO APPEAL

A discretionary power of the highest court to grant appeal from any decision on any matter by any court or tribunal.

In England, the judicial committee of the Privy Council possesses the power to grant special leave to appeal; a petition for special leave lies where the court below lacks the power to grant leave to appeal or possessing that power has declined to exercise that power; in criminal cases, leave is granted only when some substantial or gross injustice has been done; in civil cases, on a question of general interest or public importance.[1]

In India, the Supreme Court possesses the power to grant special leave to appeal from any judgement, decree, determination, sentence or order in any cause or matter passed or made by any Court or tribunal in the territory of India; it does not apply to the judgement etc. of a military tribunal;[2] this power of the Supreme Court is not subject to any constitutional limitation;[3] left entirely to the discretion of the Supreme Court;[4] exercisable outside the purview of the ordinary law relating to appeal and in cases where needs of justice demand interference by the highest court of the land; to be exercised only under exceptional circumstances.[5]

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[1]Basu (6th edn.), Vol. G, p. 305
[2]Art. 136
[3]Subedar *V.* State of U.P.; A. 1971, S.C. 125
[4]Durgashankar *V.* Raghuraj, A. 1954, S.C. 520
[5]Basu (6th edn.), Vol. G; pp. 305-306

STATE

The power or authority represented by a body of people politically organised under one Governor within a territory or territories having definite boundaries[1]; organisation of the body politic or one of the constituent members of a federation[2]; organised political community with government recognised by the people.[3]

State comprises people, territory, government through which its policies are implemented and sovereignty having authority to make final legal decisions and having physical power to enforce them.[4]

In India, it refers to the Government and Parliament of India, the Government and the legislature of each State and all local and other authorities within the territory of India or under the control of the Government of India.[5]

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[1]Webster, p. 1424
[2]Chambers, p. 1973
[3]Oxford, p. 1254
[4]Dunner, p. 498
[5]Art. 12

STATE ACT

An Act passed by the Legislature of a State established or continued by the Constitution.[1]

A Bill, after it has been passed by the State Legislature, is presented to the Governor for his assent. The Governor may assent to the Bill or withhold his assent and send it back to the House or Houses for reconsideration. If the Bill is again passed by the House or Houses, the Governor cannot withhold his assent.

The Governor has the power to reserve any Bill for the consideration of the President.[2]

The President may direct the Governor to return the Bill to the State Legislature for reconsideration; can refuse his assent to a Bill even if it is passed by the State Legislature after reconsideration. In that case the Bill falls.[3]

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[1]General Clauses Act, Section 3(59)
[2]Art. 200
[3]Basu, Vol. H., p. 197

STATE GOVERNMENT

Headed by the Governor who exercises the executive powers of the State[1]; appoints Chief Minister and other Ministers on the advice of the Chief Minister;[2] the Council of Ministers headed by the Chief Minister aids and advises the Governor in the exercise of his functions;[3] the Council of Ministers is collectively responsible to the Legislative Assembly of the State;[4] its executive powers extend to the matters on which the State Legislature is empowered to make laws.[5]

[1]Art. 154(1)
[2]Art. 164(1)
[3]Art. 163(1)
[4]Art. 164(2)
[5]Art. 162

STATEMENT OF OBJECTS AND REASONS

A statement explaining the contents and objects of a Bill in non-technical language.[1]

In U.K., it is called explanatory memorandum. Technically it is not a part of the Bill, but is often attached to the first print of the Bill.[2]

The language of the Memorandum is non-technical and it contains nothing of an argumentative character. It has to be approved by the Public Bill Office and after that circulated alongwith the Bill.[3]

In the Indian Parliament, the statement of objects and reasons is appended to every Bill briefly explaining the purpose of the proposed legislation.[4]

It should not contain arguments; can be revised if the Speaker thinks fit.[5]

Any lacuna in the statement can be pointed out at the stage of introduction and not at the stage of consideration; can be amended by the Member-in-Charge of the Bill only at the introduction stage with the permission of the Speaker.[6]

The statement of objects and reasons, technically, is not the part of the Bill; it only helps in understanding the necessity and scope of the Bill, the court cannot rely on it in construing the Act as it refers to the Bill as introduced and the Bill may undergo considerable changes before it is passed;[7] deleted after Bill is passed and transmitted to other House.

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[1]Kaul & Shakdher, p. 541
[2]May, p. 463
[3]*Ibid*, p. 501
[4]Kaul & Shakdher, p. 541
[5]Rule 65 (1) proviso (Lok Sabha)
[6]Kaul & Shakdher, p. 542
[7]*Ibid*, p. 541

STATUTE

A law passed by a Legislative body and set forth in a formal document;[1] a law or enactment of a legislative authority.[2]

In its primary meaning, synonymous with Act of Parliament.[3]

In all its definitions, it refers to 'written' as opposed to 'unwritten' law.[4]

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[1]Webster, p. 1425
[2]Wilding and Laundy, p. 724
[3]Stroud, Vol. 3, p. 2544
[4]UNESCO, p. 693

STRANGERS

An outsider or foreigner[1]; a visitor[2]; a person not a party to an act, contract or title[3]; a visitor who is admitted to the public gallery of Legislative Chamber.

In U.K., any person within the precincts of the palace of Westminster, who is neither a Peer, nor a Member of the House of Commons, nor an Officer of either House is officially regarded as a stranger; the public galleries are called 'strangers' Galleries'.[4] Strangers are allowed in those parts of the House not appropriated to the use of Members[5]; they are admitted on production of orders of admission obtainable through members; admission to strangers' Galleries is subject to availability of vacant seats.[6]

Strangers are excluded from the galleries when notice is taken of their presence and a question is put by the Speaker or the Chairman that the strangers be ordered to withdraw; such order extends to the Press Gallery but exempts the Lords sitting in the House of Commons gallery and the Common sitting in the House of Lords gallery. The Speaker or the Chairman has the power, whenever he thinks fit, to order the withdrawal of strangers from any part of the House. Strangers are to withdraw from the Lobby during a division.[7]

In the House of Lords, distinguished strangers are regularly admitted below the bar and the galleries; however, the order to exclude them may be enforced at any time.[8]

Strangers who are in any part of the House or gallery appropriated to the Members or those who, misconduct themselves are taken into custody by the serjeant under direction[9]. Strangers are required to withdraw from the Members' Lobby during a division[10]; they are permitted to the sittings of Standing Committees and Select Committees when they are examining the witnesses.[11]

In the Indian Parliament, strangers are admitted during the sittings of the House to those portions of the House which are not exclusively reserved for Members. The admission of strangers to these places is regulated by orders

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[1]Webster, p.144
[2]Chambers p. 984
[3]Anderson, p. 980
[4]Wilding & Laundy, p. 728
[5]May, p. 181
[6]Abraham and Hawtrey, pp. 209-210
[7]May, pp. 182, 183
[8]*Ibid*, p. 181
[9]*Ibid*, p. 225
[10]*Ibid*, p. 227
[11]Wilding & Laundy, p. 728 & May, p. 673

made by the Speaker[12]. Strangers are admitted to galleries on production of cards and their admission is governed by rules made under the directions of the Speaker. The Speaker may cancel any admission card to any gallery at any time.[13] The Speaker, whenever he thinks fit, may order the strangers to withdraw from any part of the House.[14] If a stranger refuses to withdraw when he is ordered to do so or misconducts himself or wilfully infringes the regulations made under the rules, he is removed from the precincts of the House or taken into custody.[15] Strangers are not admitted to the Chamber, lobbies or galleries in a Secret session of the House.[16] They are also not admitted to the sitting of a Parliamentary Committee.[17]

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[12]Rule 386
[13]Kaul & Shakdher, p. 950
[14]Rule 387 (Lok Sahba)
[15]Rule 387 A (Lok Sabha)
[16]Rule 248(2) (Lok Sabha)
[17]Rules 266 & 268 (Lok Sabha)

SUB-CLAUSE

'Sub-clause' means a sub-clause of the clause in which the expression occurs.[1]

SUB-SECTION

A division of a section[2]; a sub-section of the sections in which the word occurs.[3]

[1]Art. 366 (27)
[2]Webster, p. 1453
[3]G.C.A. Sec. 3(61)

SUPPLEMENTARY GRANTS

Grants sought in the event of authorized amount for a service being found to be insufficient for the current financial year or when need has arisen during the current financial year for supplementary or additional expenditure upon some 'new service' not contemplated in the annual financial statement for that year.[1]

In U.K., it is known as supplementary estimates projecting additional requirements of departments for a further grant to existing service or for meeting expenditure of new service[2]; prepared in the same form like main estimates detailing the proposed expenditure and the purpose for which it is required; presented to Parliament before the financial year for avoiding the deficit to be carried over to next financial year; under the new financial procedure winter supplementary estimates have to be disposed of before 6 February;[3] supplementary estimates for current financial year have to be passed before 18 March.[4]

In India, supplementary grants are caused to be laid before both Houses of Parliament by the President in the form of a statement showing the estimated amount of expenditure[5]; supplementary grants are regulated by the same procedure as applicable to demands for grants[6]; the Minister concerned does not formally move a motion regarding supplementary demands but explains the necessity of the demand[7]; the discussion on supplementary demands has to confine to items constituting the demands and its necessity; no discussion is allowed on original grant or general grievance or policy under laying it.[8] The Supplementary Demands for Grants must be presented to and passed by the House before the end of the financial year.

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[1]Art. 115(1)(a)
[2]Wilding & Laundy pp. 254-255 & Map p. 750
[3]Wilding & Laundy p. 255
[4]May, p. 757
[5]Art. 115(1)(b)
[6]Rule 215 (Lok Sabha)
[7]Kaul & Shakdher, p. 721
[8]Rule 216 & Kaul and Shakdher, p. 722

SUSPENSION OF RULES

Holding in abeyance rules of business in a legislature for a temporary period; in British Parliament suspension of rule is resorted to for obtaining more time for discussion of public business by taking recourse to standing orders. Under S.O. No. 3, Ministers of the Crown after giving due notice can move for suspension of any business from the operation of the 10 O'clock rule for a limited or unlimited period of time. S.O. No. 2 provides for suspension of a sitting after 10 O'clock. A Minister of the Crown can move a motion under this S.O., without giving notice. If the motion is agreed to by the House, half hour adjournment debate follows. The suspended sitting is resumed the following morning and the remaining business is taken up.[1]

In the Indian Parliament, a member with the consent of the Speaker can move that any rule may be suspended in its application to a particular motion before the House and if the motion is carried the rule in question is suspended for the time being.[2] However, the Speaker may refuse permission to moving of motion for suspension of a rule if the circumstances of a case do not require such a step.[3] Motion for suspension of a rule in its application to a motion can be moved if it is included in the list of business. Notice for such motion has to be given in advance.[4] The Speaker may require concurrence of the Leader of the House in case of motion for suspension of a rule in relation to suspension of a member from the service of the House or rescinding the decision of the House on Business Advisory Committee report.[5] A Bill negatived by the House cannot be withdrawn by suspending the relevant rule with the purpose of reintroducing it without change.[6]

The Speaker may refuse permission for the suspension of rule related to the removal of the Speaker.[7]

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[1]May, pp. 310-269
[2]Rule 388 (Lok Sabha)
[3]Kaul & Shakdher, p. 944
[4]*Ibid,* p. 945
[5]*Ibid,* p. 945
[6]*Ibid,* p. 945
[7]*Ibid,* p. 945

SWEAR

To make a solemn declaration or affirmation with an appeal to God or to some done or something held sacred for confirmation[1]; To put on oath, to administer an oath to[2]; includes affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing.[3]

[1]Webster, p. 1472
[2]Anderson, p. 971
[3]Section 62 of the General Clauses Act

T

TABLE OF THE HOUSE

The central table in the pit of the House of Legislature.

In the House of Commons, the Table lies between the Speaker's Chair and the Bar.[1]

It is so close to the front benches that front-bench members are often seen with their feet resting on the Table.[2] When Speaker is in the Chair, the Royal Mace is placed on this table.[3] The Clerk of the House and the Clerk Assistant sit at this table.[4] Newly elected members come to the Table to take oath or make affirmation and sign the test roll.[5] All documents which are presented to the House are laid on the Table of the House.

In the House of Lords, Clerk of the Lords, Clerk Assistant and Reading Clerk sit at the table and parliamentary papers are laid on this table[6].

In the pit of the two Houses of Indian Parliament, just in front of the table of the Secretary-General lies the table of the House. Papers which are required to be laid on the table of the House in pursuance of constitutional provisions, statutes, Rules and Directions are formally placed on this Table[7]; officials of the Secretariat and official Reporters sit at the table. Newly elected members when called come to the table to take oath or make affirmation and sign the roll of members which is kept at the table[8];

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[1]May, p. 177
[2]Wilding & Laundy, p. 738
[3]May, p. 190
[4]*Ibid,* p. 198
[5]*Ibid,* p. 243 & Abraham & Hawtrey, p. 218
[6]May, p. 186
[7]Kaul & Shakdher, pp. 967, 968 & 969
[8]*Ibid,* p. 366

TAX

Contribution levied on persons, property or business for support of Government[1]; a compulsory payment of a percentage of income, property value, sales price, etc. for the support of a Government[2] a charge, a pecuniary burden for the support of Government.[3]

Tax is not a debt, but an impost levied for the support of the Government or for some special purpose authorized by it; the consent of the tax-payer not necessary to its enforcement.[4]

Taxes are usually direct and indirect.[5]

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[1]Oxford, p. 1328
[2]Webster, p. 1494
[3]Anderson, p. 1006
[4]*Ibid*
[5]*Ibid,* p. 1008

TAX ON INCOME

A tax on the money or other gain periodically received by an individual, corporation etc.[1] does not include agricultural income[2] but includes a tax in the nature of an excess profits tax;[3] embraces any profit or gain which is actually received or notionally accrued.[4]

[1]Webster, p. 737
[2]Item 82 in List I of the 7th Schedule of the Constitution of India.
[3]Art. 366(29)
[4]Basu, 4th edn., Vol. 5, p. 412

TAXATION

A tax levy; the principle of levying taxes;[1] levying a charge, a pecuniary burden, for the support of government, by authority of the legislature. The consent of the tax payer is not necessary to its enforcement;[2] the imposition of any tax or impost or duties, under the authority of Parliament.

In England, the principle that the Crown has no power to tax except by grant of Parliament originated in the demand of Magna Carta in AD 1215; thus, the authority for taxation in U.K. is an Act of Parliament.[3] Constitutionally, the initiative for imposing taxation is taken by the Crown through Ways and Means resolution in the Commons; this resolution is a necessary preliminary to taxation and is moved by a Minister of the Crown. Thus the Crown demands money, the Commons grant it and the Lords assent to the grant.[4] Taxes are announced in the annual budget presented by the Chancellor of the Exchequer.[5]

The principle of 'no taxation without representation' has been adopted in India; thus no tax can be levied or collected except by authority of law;[6] this cannot be done by mere resolutions of the Houses or any executive action; the authority of a valid law is the essential prerequisite for the levy or collection of taxes.[7]

The taxation proposals are contained in the annual Budget presented to Parliament by the Finance Minister.

No Bill or amendment seeking permission for imposition, abolition, remission, alteration or regulation of any tax can by introduced or moved except on the recommendation of the President and such a Bill cannot be introduced in Rajya Sabha.[8]

Bills or amendments affecting taxation in which States are interested also require recommendation of the President for introduction or moving in either House of Parliament.[9]

(For details *see* 'Budget' and; 'Finance Bill'.)

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[1]Webster, p. 1494
[2]Anderson, p. 1006
[3]Basu, Vol. K, pp. 204-205
[4]May, pp. 750, 760-61, 822, 777, 778 & 796
[5]*Ibid,* p. 788
[6]Art. 265
[7]Basu, 6th edn., Vol K, pp. 206-7
[8]Art. 117(1)
[9]Art. 274.(1)

TEDIOUS REPETITION

A wearisome repetition by a Member of a legislature, of his own arguments or arguments used by other Members in debate;[1] it is against the rules of debate.

In the House of Commons, persisting in tedious repetition is one of the offences and the Speaker is empowered to direct the offending Member to discontinue his speech. If he refuses to obey the direction of the Chair, the Speaker may either direct him to withdraw from the House for the remainder of the sitting or name him for disregarding the authority of the Chair.[2] Any Chairman of a Committee of the whole House also has the power to direct the Member who persists in tedious repetition to discontinue his speech.[3]

In the Lok Sabha too, the Speaker, after having called the attention of the House to the conduct of a Member who persists in irrelevance or in tedious repetition either of his own arguments or of the arguments used by other members in debate, may direct him to discontinue his speech.[4] If a Member continues to speak in definance of Speaker's direction, such speech or portions thereof, as the case may be, shall not form part of the proceedings of the House.[5]

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[1]May, p. 393
[2]*Ibid,* p. 393
[3]*Ibid,* p. 972
[4]Rule 356
[5]Dir. 115A(4)

TERRITORY OF INDIA

The territory of India comprises: (a) the territories of the States; (b) the Union territories specified in the First Schedule; and (c) such other territories as may be acquired.[1]

[1]Art. 1(3)

TITLE, LONG

A short statement prefixed to a Bill setting out its purpose or object.[1]

In British Parliament, long title to a Bill sets out in general terms purpose of the Bill, title of a Bill is generally referred to as ' long title' which can be amended if the Bill is found narrower than its title;[2] it may be amended at any stage in the progress of the Bill.[3]

In India too, title is generally referred to as long title; describes nature of proposed measure; drafted in such a manner that it is not vague and covers all the provisions of the Bill;[4] becomes part of the Bill after the Speaker has put the question to the House and is agreed to.[5]

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[1]Abraham & Hawtrey, p. 221
[2]May, p. 462
[3]Abraham & Hawtrey, p. 221
[4]Kaul & Shakdher, p. 534
[5]Rule 92

TITLE, SHORT

A label or index heading cited in the first Clause of a Bill.[1]

Name by which a Bill is described in notice, order paper, votes and proceedings and the Journal of House of Commons and Publications of House of Lords; follows the title proper which is prefixed to the Bill.[2]

Enactments are cited by their short titles. If there is a reference to another Act in an enactment, short title is cited in the body and reference to its number and year is made in the margin.[3]

[1]Kaul & Shakdher, p. 536
[2]Abraham & Hawtrey, pp. 188-89
[3]Kaul & Shakdher, p. 536

TOKEN GRANT

A grant of a token sum made by Parliament to meet the proposed expenditure on a new service.[1]

In U.K., the token sum is inserted under the appropriate subhead in the main estimate itself; it is done because, being a new service, sufficient detail is not available and also the amount of the grant cannot be precisely estimated.[2]

In India, demand for grant of a token sum is brought before the House when funds to meet expenditure on 'new service' can be made available by re-appropriation; if House assents to the demand, funds are made available.[3]

Token grant generally form part of Supplementary Demands for Grants.

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[1]Rule 217
[2]May, p. 749
[3]Rule 217

TREASURY BENCH

Front bench on the right hand of Speaker in House of Commons occupied by Prime Minister, Chancellor of Exchequer and other members of Government;[1] a name given to the bench occupied by the Ministers that is, the front bench extending up to the gangway on the right of the Speaker; also called government bench.[2]

In India, too, front bench on the right hand of the Speaker is occupied by the Prime Minister and other members of Government.[3]

[1]Oxford, p. 1384
[2]Abraham & Hawtrey, p. 222
[3]Kaul & Shakdher, p. 1033

U

UNION TERRITORIES

The territories in the former Part D States; also include some of the former Part C States;[1] presently included in the First Schedule of the Constitution; also include any other territory comprised within the territory of India, but not specified in that Schedule.[2]

President is the executive head of a Union Territory; he occupies a position analogous to that of a Governor in a State[3]; he can administer the Union Territory through an Administrator; a Governor of an adjoining State can also be appointed as the Administrator of a Union Territory.[4]

Presently the Union Territories are Delhi, Andaman & Nicobar Islands, Lakshdweep, Dadra and Nagar Haveli, Pondicherry, Chandigarh and Daman & Diu.

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[1]Basu (5th Edn.), Vol 4, p. 44
[2]Art. 366 (30)
[3]Basu (5th Edn.) Vol. 4, p. 47
[4]Art. 239 (1) (2)

UNPARLIAMENTARY EXPRESSIONS

Expressions contrary to the usages of Parliament[1]; containing accusations or imputations against a Member of either House which are abusive in nature and are not be used in Parliamentary debate.[2] The use of such language is a breach of order and, if the member using it does not immediately withdraw the offensive words at the request of the Speaker, he may be called upon to withdraw from the House or 'named'.

In British Parliament, such expressions imputing false on unavowed motives, misrepresenting language of another, making charges of uttering deliberate falsehood are held unparliamentary[3] using such expressions is a breach of order[4] and when a Member uses them, the Speaker asks him to withdraw such remarks. If a Member does not withdraw the unparliamentary words or offer an apology, the Speaker asks him to withdraw from the House or names him.[5]

In Indian Parliament, too, expressions which are defamatory, indecent or undignified, amount to unparliamentary expressions. If the Speaker is of the opinion that such words have been used in the debate, he may, in his discretion, order expunction of such words from the proceedings of the House.[6] When a member uses unparliamentary expressions, the Speaker asks him to withdraw them. If the Member refuses to do so, the Speaker may order expunction of such words. An expression may be expunged even when the Member who used it withdraws it.[7] The expunction of unparliamentary words may be ordered by the Speaker if he himself holds some words as unparliamentary or his attention is drawn to them by a Member, a Minister or an Officer of the Secretariat. The portion of the proceedings so expunged is indicated in the debates by asterisks with a foot note "Expunged as ordered by the Chair".[8]

(Also *see* under 'Expunction of Remarks')

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[1]Chambers, p. 108
[2]Abraham & Howtrey, pp. 228-229
[3]May, p. 387
[4]Abraham & Hawtrey, p. 222
[5]May, p. 394
[6]Rule 380
[7]Kaul & Shakdher, pp. 1004-1005
[8]Rule 381

UNTOUCHABILITY

The defiling character attributed by Hindus of high caste to those of low caste or to non-Hindus;[1] social disabilities historically imposed on certain classes of people by reason of their birth in certain castes.[2]

Untouchability in India was abolished by a constitutional provision under the fundamental rights. Practice of untouchability in any form is forbidden[3] and made an offence punishable under Untouchability (Offences) Act, 1955 which specifies ingredients of the offence of untouchability.[4]

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[1]Webster, p. 1598
[2]Basu Vol. 1, p. 540
[3]Art. 17
[4]Basu Vol. 1, p. 540

V

VACATION OF SEATS

Vacations of seats in a Legislative House, under various circumstances.

In the House of Commons, vacancies occur as a result of the death of Members or their succession to a peerage, the acceptance of a disqualifying office, the elevation of Members to the peerage, bankruptcy, lunacy, the establishment of any other legal disqualification for sitting and voting in the House of Commons, and the determination of election judges that the elections or returns are void.[1]

In India a Member of either House of Parliament shall cease to be a Member of that House and his seat shall become vacant, if he (i) is chosen a Member of both Houses of Parliament and of a House of the State Legislature;[2] (ii) holds any office of profit under the Govt. of India or the Govt. of any State;[3] (iii) is of unsound mind and stands so declared by a competent court;[4] (iv) is an undischarged insolvent;[5] (v) is not a citizen of India, or has voluntarily acquired by citizenship of a foreign state, or is under any acknowledgement of allegiance or adherence to foreign state;[6] (vi) is so disqualified by or under any Law made by Parliament;[7] (vii) is disqualified under the Tenth schedule of the Constitution; (viii) is expelled consequent upon the adoption of a motion of expulsion by the House;[8] (ix) elected as President of India,[9] or Vice-President of India and enters upon his office as President or Vice-President;[10] (x) is appointed as Governor of a State and enters upon his office as Governor;[11] resigns his seat and his resignation is accepted by the Chairman or the Speaker, as the case may be.[12] Further, the seat of a Member may be declared vacant if he remains absent from all the meetings of the House for a period of 60 days or more without the permission of the House.[13]

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[1]May, pp. 31-33
[2]Art. 101(2)
[3]Art 102(1)a
[4]Art. 102(1)b
[5]Art. 102(1)c
[6]Art. 102(1)d
[7]Art 102(1)e, Art. 102(2)
[8]Kaul & Shakdher, p. 64
[9]Art. 59(1)
[10]Art. 66(1)
[11]Art. 158(1)
[12]Art. 101(3)b
[13]Art. 101(4)

VICE-PRESIDENT

The highest dignitary in India next after the President.

In U.K., no such office exists. In U.S.A., the normal function of the Vice-President is to act as the President of the Senate; also when the office of the President becomes vacant he acts as the President.[1]

In India, no functions are attached to the office of the Vice-President as such. The Vice-President, being the *ex-officio* Chairman of the Rajya Sabha (Council of States), presides over the sittings of that House. He enjoys all powers to regulate the debate and proceedings of Rajya Sabha and is also Head of the Secretariat of that House. If a vacancy arises in the office of the President by reason of his death, resignation, removal or otherwise, the Vice-President acts as the President until a new President is elected and enters upon his office; he also discharges the functions of the President during temporary absence of the latter due to illness or any other cause. When the Vice-President acts or discharges the functions of the President, he ceases to performs the duties of the Chairman of the Rajya Sabha.[2]

The Vice-President is elected by the members of an electoral college consisting of the Members of both Houses of Parliament in accordance with the system of proportional representation by means of the single transferable vote; election is held by secret ballot.[3]

A person eligible for elecion as Vice-President must be an Indian citizen and must have completed the age of thirty-five years, he must also be qualified for election as a member of the Rajya Sabha.[4] He must not held any office of profit in the Government of India or the Government of State or any local authority subject to the control of these Governments; however, a person holding the office of President or Vice-President of the Union or Governor or any State or who is a member of Council of Ministers of the Union or of any State, is eligible to become the Vice-President.[5]

The Vice-President shall not be a member of either House of Parliament or a State Legislature.[6] He can be removed from his office by a resolution of Rajya Sabha passed by a majority of all the then members of the House and agreed to by the Lok Sabha.[7] The term of office of the Vice-President is five years; however, he continues to hold office until his successor enters upon his office.[8] The Vice-President, before entering upon his office, has to make and subscribe before the President, or some person appointed in that behalf by him, an oath or affirmation.[9]

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[1]Basu 4th edn., Vol. 2 (Art. 64), p. 388
[2]Art. 64 & 65
[3]Art. 66
[4]Art. 66(3)
[5]Art. 66(4)
[6]Art. 66(2)
[7]Art. 67
[8]*Ibid*
[9]Art. 69

VOTE

Decision by one or more persons on a proposal, resolution expressed by ticket, ballot or voice,[1] formal expression of will or opinion, regarding election of officer, sanctioning of law. Passing of resolution by ballot, show of hands or voice[2]; an expression of a wish or opinion in an authorised formal way[3]; the will of a member of a body formally manifested towards the decision of a question by the body as whole[4]; in Parliament a formal expression by its member of his will or opinion in regard to some question put from the Chair.[5]

In British Parliament all questions are decided on the basis of simple majority which is ascertained by vote.[6] Members' opinions are collected from their voices in the House. However, members may vote by a division. If a member's vote is contrary to his voice, objection has to be taken before the numbers are reported to the Chair; such an objection is not entertained after the Chair declares the Numbers.[7]

In Indian Parliament also all questions are generally decided by obtaining vote of members. The Speaker puts the question before the House and from voices of members decides the question in the affirmative or negative. If the Speaker's decision is not challenged by any member in the House, the question is determined by the Speaker accordingly.[8]

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[1]Webster p. 1637
[2]Oxford, p. 1460
[3]Chambers. p. 1120
[4]Anderson, p. 1094
[5]Abraham & Hawtrey, p. 223
[6]Wilding & Laundy. p. 212
[7]May, p. 349
[8]Kaul & Shakdher, p. 926

VOTE, CASTING

Deciding Vote cast by the Presiding Officer when voting on both sides is equal;[1] Chairman's deciding vote in case of equality;[2] Vote that decides between the two equal parties;[3] deciding vote in a deliberative or parliamentary assembly cast by the Presiding Officer in the event of a tie;[4] Speaker's vote when voting in a division is equal;[5] in common law, the single vote of a person who ordinarily does not vote, and, in case of an equality of votes, sometimes the double vote of a person who first votes with the others and upon an equality, creates a majority by giving a second vote;[6] the vote given by the Chairman, or President of a deliberative assembly when the suffrages of the meeting are equal. The Chairman, though not disqualified by law from voting, is usually not entitled to vote in the first instance.[7]

In the House of Commons the Speaker has the casting vote and he is at liberty to vote like any other member according to his conscience. But to avoid any imputation upon his impartiality, he usually votes in such a manner as not to make the decision of the House final. The principles upon which casting vote is given are (1) that the Speaker should always vote for further discussion, (2) that where it is not possible, decisions should not be taken except by a majority; and (3) that a casting vote on an amendment to a Bill should leave the Bill in its existing form.[8]

In the House of Lords, in the event of an equality of voices, the principle adopted is that the question before the House shall be decided in the negative unless there is a majority; Proposals to amend or reject Bills and motions relating to the stages of Bills shall not be agreed to unless there is a majority. When the House sits judicially, the question is put first for reversing the judgement and if the numbers be equal the House refuses to reverse the judgement.[9] Similarly in the case of equality of votes on a division in a Committee on the question whether the bill should proceed or not, the House allows it to proceed. The Lord in the Chair has no casting vote.[10]

In Indian Parliament, the Chairman or Speaker or person acting as such cannot vote in the first instance but shall have and exercise a casting vote

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[1]Webster, p. 228
[2]Chambers, p. 150
[3]Oxford, p. 186
[4]Kaul & Shakdher, p. 935
[5]Wilding & Laundy, p. 80
[6]Anderson, p. 1094
[7]Wharton, p. 166
[8]May, pp. 357-358
[9]May, p. 457
[10]*Ibid,* p. 618

in the case of an equality of votes.[11] It is, however, customary that such a vote is exercised to maintain *status quo.*[12] Unlike the Speaker or the person acting as such, the Chairman of a Parliamentary Committee or the person acting as such votes in the first instance as an ordinary member and later if there is a tie he has to exercise a second and casting vote.[13]

At a joint sitting of both the Houses, the Speaker or the person acting as such can exercise a casting vote in case of equality of voters.[14]

[11]Art. 100 (1)
[12]Kaul & Shakdher, p. 935
[13]*Ibid,* pp. 935
[14]Art. 100 (1)

VOTE, CORRECTION OF

Method of correcting an error in a vote cast by a member of Parliament.

In British Parliament, if an error in numbers is found before the end of sitting, the Speaker reports the corrected numbers in the House. If an error in voting is subsequently discovered, it is ordered to be corrected in the journal. If a member complains that teller had left the door before he had reached immediately after declaration of numbers, the Speaker after hearing the tellers, declares the corrected numbers. If members vote in both lobbies or vote twice in the same lobby, they are allowed to make personal explanation about the lobby in which they actually intended to vote and the correction in the numbers is accordingly done. If a member wants to raise an objection that another member's vote was contrary to his voice, it has to be raised before the declaration of division numbers by the Chair.[1]

In the Indian Parliament, if members represent that automatic vote recorder did not record the votes correctly, the Speaker may order lobbies to be cleared and direct the members to record their votes by 'Aye' and 'No' slips or by going into lobbies or direct votes to be recorded by automatic vote recording machine without clearing lobbies again. The Speaker may also permit a member who has wrongly voted to correct his vote if it is brought to his notice before the announcement of the result of the division.[2]

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[1]May, pp. 355-356
[2]Kaul & Shakdher, p. 932

VOTE, DISALLOWANCE OF

Rejection of the vote of a member of Parliament by the Speaker on sustaining the objection of another member.

In British Parliament, a member having direct pecuniary interest in a matter before the House is not allowed to vote upon it. However, the vote of a member is disallowed only if his interest is immediate and personal and not of general or remote nature. An objection to a vote on the ground of personal interest can be raised only on a substantive motion. The member whose vote is under consideration has to immediately withdraw from the House after he is heard. Votes of members have been disallowed on the question of public policy and also on private Bills.[1]

In the Indian Parliament, the vote of a member can be challenged on the ground of his personal, pecuniary or direct interest in the matter prejudicing his judgement immediately after the division and before announcement of its result by the Speaker. In such a situation if the Speaker thinks necessary he may call upon the member challenging the vote to precisely mention the grounds of the objection and the member whose vote has been challenged to state his case. The Speaker then decides whether the vote should be disallowed or not and his decision in the matter is final.[2]

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[1]May, pp. 361-364
[2]Rule 371 & Kaul & Shakdher, p. 316

VOTE, SINGLE TRANSFERABLE

An electoral system providing single ballot in which the voter has to indicate his choice of candidates in order of his preference. All candidates who secure necessary minimum quota of votes are declared elected. The quota in a constituency returning three candidates would, for instance, be one quarter of the votes cast plus one. Candidates at the bottom of the poll are eliminated and their votes distributed among other candidates according to voters' preference till the number of candidates in poll is brought down to the number of vacancies.

The system has not been implemented in U.K. (except in some University Constituencies). However, it is widely used in Australia; it operates in respect of elections to the House of Representatives of the Commonwealth Parliament and Legislative Assemblies of Victoria, New South Wales etc.[1]

In India, the system is used for electing the President, Vice-President and members of Parliamentary Committees such as Estimates, Public Undertakings and Public Accounts.[2]

[1]Wilding & Laundy, pp. 13, 616
[2]Kaul & Shakdher, pp. 41-42 and Rules 309, 311, 312 (b)

VOTE, VOICE

Voting by voice in favour of or against a question put by the Chair.

In British Parliament, the Speaker rising from the Chair, takes the sense of the House by asking members in favour of a question to say 'Aye' and those against by saying 'No'. Judging from the loudness of their exclamation, the Speaker decides whether 'Ayes' or 'Noes' have a majority and expresses his opinion by saying 'Ayes have it' or 'Noes have it'. If his decision is not challenged, the question is 'agreed to' or 'negatived' as the case may be. If the Speaker's decision is challenged, he orders division.[1]

In the Indian Parliament also questions are generally decided by voice vote. The Speaker puts a question and invites members in favour of it to say 'Aye' and those against to say 'No'. Judging from the voices of members the Speaker announces that "I think the 'Ayes' (or Noes) have it". If the Speaker's opinion is not challenged by members he says twice. "The Ayes (or the Noes as the case may be) have it" and the question is decided accordingly. If any member challenges the Speaker's decision, he orders a division. If a question is decided by voice vote, the Speaker does not announce the numbers of 'Ayes' or 'Noes'.[2]

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[1]May, p. 349
[2]Kaul & Shakdher, p. 926

VOTE OF CREDIT

A Parliamentary Grant for an unexpected demand; a large sum of money is kept at the disposal of the Government for unspecified purposes under this Grant.[1]

In U.K., in conditions of national emergency or war Parliament is asked to pass a vote of credit as it is impossible to draw up a detailed estimate of expenditure; however, votes of credit are regarded as undesirable in principle.[2]

In India, the Lok Sabha is empowered to make grant known as vote of credit for meeting an unexpected demand for money when the demand cannot be stated with details due to the magnitude or the indefinite character of the service.[3] A national emergency, for instance, can cause such an unexpected demand;[4] however, there has not been any occasion when the House has exercised this power.[5] The votes of credit are to be regulated by the same procedure as is applicable in the case of Demands for Grants subject to such adaptations as the Speaker, Lok Sabha, may deem to be necessary or expedient.[6]

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[1]Wilding & Laundy, p. 256
[2]*Ibid,* p. 256
[3]Art. 116(b)
[4]Basu,, Vth edn. Vol. II, pp. 720, 721
[5]Kaul & Shakdher, p. 721
[6]Rule 215

VOTE ON ACCOUNT

Estimate of an advance payment to enable Government departments to carry on their work from begining of financial year till the passing of Appropriation Act.[1] Since it takes three to four months till Appropriation Act is passed, vote on account is sought in the House of Commons by presenting special estimates providing for an amount to cover the needs of defence, civil services and House of Commons administration for the period of three or four months.[2] Vote on account is divided into number of votes demanding about 5/12th of the total amount provided in estimates. It is considered by Committee on Supply which votes it in the form of resolution which is later on agreed to by the House. It has also to be voted by Committee of Ways and Means and finally authorised by passing Consolidated Fund Bill. Members may oppose vote on account by a motion seeking reduction of the amount.[3] Passing of vote on account is given special priority consideration under the system of closure since it has to be passed before 31st March.[4] Vote on account has to be sought in the event of dissolution of Parliament. The grants on account necessitated by dissolution of Parliament have to be sanctioned by Appropriation Act which has to be passed before Parliament is dissolved.[5]

In India also, vote on account refers to the advance to be made by Parliament to enable the Government to carry on its expenditure until passing of general appropriation Bill.[6] Vote on account is generally taken for two months for a sixth or suitable portion of the estimated expenditure under various grants. It is normally treated as a formal business and is passed without discussion. It cannot normally be used for obtaining Parliamentary approval for 'new Services'.[7] A motion seeking vote on account has to indicate the total sum required and break up of the amount ministry-wise; amendments can be moved for reduction of the grant or omission of items composing the grant.[8] General discussion on the motion may be allowed but details of the grant cannot be discussed.

The procedure for dealing with motion of vote on account is same as that of demand for grants.[9]

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[1]Abraham & Hawtrey, pp. 223-224
[2]May, pp. 749-750
[3]Abraham & Hawtrey, p. 224
[4]Wilding & Laundy, p. 254
[5]May, p. 750
[6]Art. 116(1) (a) and (2)
[7]Kaul & Shakdher, pp 719-720
[8]Rule 214 (1) & (2)
[9]Rule 214 (3) & (4)

VOTING, ACT OF

To express the will or preference in a matter by ballot, voice etc.[1] process of expressing will or opinion by members of Legislatures in regard to some question put from the Chair technically known as division.[2]

In British Parliament, all questions are decided on the basis of simple majority which is ascertained by voting.[3] Voting may be by voice vote when members' opinions are collected by the Speaker from their voices or by a division if the Speaker's decision of voice vote is challenged by a member present in the House.[4] During the division members wishing to vote for or against a question are physically separated into two lobbies for the purpose of voting after the lobbies are cleared.[5]

In Indian Parliament also, all questions are generally decided by means of voice vote. The Speaker puts the question and judging from voices of members decides the question in the affirmative or negative. If the Speaker's decision is challenged by a member present in the House, the Speaker orders division. Voting during the division is either by automatic vote recorder or by using 'Aye', 'No' slips in the House or by members going into lobbies for the purpose of voting.[6]

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[1]Websters p. 1637
[2]Abraham & Hautrey, p. 223
[3]*Ibid*
[4]May, p. 349
[5]Wilding & Laundy, p. 212
[6]Kaul & Shakdher, pp. 925-26, Rule 367(3) (c)

VOTING OF DEMANDS FOR GRANTS

Putting to the vote of the House demands for grants for approval. In British Parliament demands for grants are known as estimates. After the estimates are debated for three days allotted for their consideration, the Chair does not immediately put the question on that estimate but takes up the next estimate and consideration of earlier estimate is deffered until 10 O'Clock when it is put to vote. Estimates to be passed under guillotine procedure require at least two days' notice before they are passed and that the dates on which they are put down for consideration comply with deadlines at different stages of the session. Estimates receive legal sanction only when they are duly authorised by passing of Consolidation Fund Bill in their regard by the House.[1]

In India, Lok Sabha alone has the power to assent or to refuse to assent any demand for grant.[2] So much of the estimate as relates to the expenditure charged upon Consolidated Fund of India is not submitted to vote of Lok Sabha, but such estimates can be discussed.[3] While discussing demands for grants, motions can be moved to reduce any demand.[4] Then these are scrutinised by standing committees[5]. After discussion, cut motions are first disposed of and then demands for grants of that Ministry/Department are put to vote of the House.[5] On the last of allotted days fixed for discussion of demands for grants, at 17.00 hrs. or such other hour fixed by him in advance, Speaker puts every question necessary to dispose of all the outstanding matters in connection with the demands for grants.[6]

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[1]May, pp. 757-758
[2]Art. 113(2)
[3]Art. 113(1)
[4]Rule 208(3)
[5]Kaul & Shakdher, pp. 707, 717
[6]Rule 208(2)

VOTING OF EXCEPTIONAL/ADDITIONAL GRANTS

Putting to the vote of the House grants for approval; in British Parliament exceptional grants involving different kinds of expenditure of unusual character are voted through supply resolutions or financial resolutions and authorised by Appropriation Act or Special Acts;[1] Votes of Credit are available during the concerned financial year and are treated like other estimates.[2]

In India, supplementary, additional or excess grants are discussed and voted by Lok Sabha and their voting is regulated by the same procedure which is adopted in case of demands for grants.[3]

(Also *see* 'Voting of demands for grants')

[1]May, p. 753
[2]*Ibid,* p. 752
[3]Kaul & Shakdher, pp. 721, 722

'W'

WALK OUT

A strike; an informal or unauthorised strike; an action of leaving a meeting or organisation as an expression of disapproval; continued absence from the meetings of an organisation as an expression of disapproval.[1]

A form of protest resorted to by Members of Legislatures in which they walk out of the House; walk out may be for a short duration or sometimes for a longer period; often, the members come back to the House immediately after moving out of it.

[1]Webster, p. 2572

WILL

The written document containing one's wish for disposition of his effects at death.[1]

'Will' shall include a codicil and every writing making a voluntary posthumous disposition of property.[2]

[1]Chambers, p. 1145
[2]Sec. 3(64) of General Clauses Act

WITHDRAWAL OF AMENDMENTS

Withdrawing an amendment by its mover.

In the House of Commons, an amendment can be withdrawn on the request of the mover after the question on the amendment is proposed by the Chair by leave of the Committee of the whole House. If a Member rises to continue the debate when the mover of an amendment has asked leave to withdraw it, leave is treated as withheld, and may not be subsequently sought again[1]. If an amendment is out of order, the Chairman withdraws the amendment from the consideration of the Committee (of the whole House).[2]

In the Indian Parliament, an amendment can be withdrawn only by leave of the House at the mover's request. If an amendment is proposed to the amendment sought to be withdrawn, first the amendment proposed is disposed of and then the original amendment is withdrawn.[3]

[1]May, p. 524
[2]*Ibid*, p. 525
[3]Rule 87

WITHDRAWAL OF BILL

Withdrawing a Bill by the Member who is in charge of it; in the House of Commons, a private bill can be withdrawan by its promoter after its first reading and orders regarding its further stages are made by informing the Private Bill Office. Bills originating in the Lords are not withdrawn in the Commons, but order for their second reading or further stage is discharged.[1] A public bill in the Commons can be withdrawn before its second reading for changing its provision, title or effecting amendments by giving notice to the clerk at the Table. A Bill may also be withdrawn at second reading or Committee stage.[2]

In the House of Lords, a private bill may be withdrawn at any stage of the passage[3] while a public bill can be withdrawn after the first reading at the beginning or end of public business without notice. Bills originating in the Commons are not withdrawn in the Lords.[4]

In India, the member in charge of bill can seek its withdrawal by moving a motion seeking leave of the House, if the legislation proposed is to be dropped or the bill is to be replaced by a new bill changing its existing provisions.[5] If a bill is under the consideration of a Joint or Select Committee the motion for withdrawal of the bill stands referred to the Committee and the motion is decided by the House after getting the Committee's opinion.[6] In case of withdrawal of bill which has originated in Rajya Sabha and is pending in Lok Sabha, the member in charge of the bill has to move a motion for obtaining concurrence of Rajya Sabha to leave being granted by the House to withdraw the bill and after the motion is adopted by the House and concurred in by Rajya Sabha, the motion for withdrawal of the Bill is to be moved in Lok Sabha.[7]

When a pending bill is sought to be withdrawn by the Government, the Government has to circulate reason for withdrawal of the bill in advance before moving motion for its withdrawal.[8]

If the motion for withdrawal of a bill is opposed the Speaker may permit the member in charge of the bill and the member who opposed the motion to make brief statement and then put the question without further debate.[9]

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[1]May, p. 875
[2]*Ibid*, pp. 503-504
[3]*Ibid*, p. 940
[4]*Ibid*, p. 467
[5]Rule 110(a) to (c)
[6]Rule 110(Proviso)
[7]*Ibid*
[8]Direction 36
[9]Rule 111

WITHDRAWAL OF MOTION

Withdrawing a motion by its mover; in British Parliament, a motion can be withdrawn by its mover by leave of the House. The leave is granted not upon putting the question but after Speaker takes the pleasure of the House. If there is an objection or a member continues the debate, the motion cannot be withdrawn. An amendment to the motion can be withdrawn by its mover. First, the amendment is disposed of and then the original motion can be withdrawn.[1]

In India, too, a motion can be withdrawn by its mover only by leave of the House. The leave is granted not upon the question but after the Speaker takes the pleasure of the House. But if there is a dissent or a member rises to continue the debate, the Speaker immediately puts the motion. If an amendment is proposed to a motion, first the amendment is disposed of and then the original motion;[2] a motion can be withdrawn only after it is put to the House but before the division. The mover is not allowed to speak while seeking withdrawal of his motion.[3]

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[1]May, p. 339
[2]Rule 339(1)(2)
[3]Kaul & Shakdher, p.667

WITHDRAWAL OF PAPER LAID ON THE TABLE

In U.K., a paper laid on the Table can be withdrawn by discharging the order which allowed the Paper to be laid on the Table; it can be done either at the initiative of the department which presented the paper or of the House; the House takes the initiative in withdrawing the Paper when it finds that the paper presented was not a correct copy; a paper presented in a previous session can be withdrawn in a subsequent Session.[1]

In the Lok Sabha, no formal procedure has so far been laid down for the withdrawal of a paper or document laid on the Table; when the need arises, the Speaker may use his inherent powers and decide according to the circumstances of each case.[2]

[1]May, p. 226
[2]Kaul & Shakdher, p. 987

WITHDRAWAL OF RESOLUTION

The act of withdrawing a resolution from the House of a Legislature by the Member who moved it.

In the House of Commons, a resolution (motion) moved can be withdrawn only by the leave of the House. The leave is signified not upon question but by the Speaker taking the pleasure of the House. He asks 'is it your pleasure that the motion be withdrawn'. If no one dissents, the Speaker would say, 'Motion by leave withdrawn'. However, if any one Member objects or rises to continue it, the debate goes on and the question will be put at the end of the debate. A motion cannot be withdrawn except by the member who moved it however a motion moved by a member of the Government can be withdrawn by another Member of the Government.[1]

In the Lok Sabha too, a Member who has moved a resolution or amendment to a resolution can withdraw the same only by leave of the House.[2]

The member cannot ask for leave to withdraw the resolution if division on an amendment proposed thereto, is in progress. Motion for withdrawal of a resolution can be moved only after the amendments have been disposed of by being agreed to, withdrawn or negatived. An amended resolution can however, be withdrawn by leave of the House.[3]

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[1]May, p. 339
[2]Rule 180
[3]Kaul & Shakdher, p.650

WITHDRAWAL OF STRANGERS

Any person within any part of the precincts of the House who is neither a member of either House of Parliament nor an officer of their respective Secretariats is officially regarded as a stranger. In U.K., similar connotation exists and, therefore, the Public Galleries are termed as, 'Strangers' Galleries'.[1]

Prior to 1875, a single member could ask for withdrawal of a stranger from the Gallery without an order of the House. However, the rule was amended in pursuance of a resolution which provided that if presence of strangers was noticed, their withdrawal could be ordered only by a majority vote. No debate is permitted on the motion, 'That strangers do withdraw' and no amendments to the motion can be moved.[2]

According to ancient practice, before the division took place the strangers were asked to withdraw. From 1853 they were required to withdraw only below the bar. Since 1906 strangers are allowed to occupy their seats in all the galleries during a division.[3]

In the Indian Parliament, admission of strangers during the sittings of the House to those portions which are not reserved for the exclusive use of members is regulated in accordance with orders made by the Speaker.[4] Hence the Speaker has the right to order the withdrawal of strangers from any part of the House.[5] The Officers of the Secretariat authorised in this behalf by the Speaker can remove from the precincts of the House or take into custody any stranger found to be in any portion of the House reserved for exclusive use of the members or any stranger, who after being admitted into any portion of the precincts of the House, misconducts himself or wilfully infringes the regulations made by the Speaker under rule 386 or refuses to withdraw when directed to do so under rule 387 while the House is sitting.[6]

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[1]Wilding & Laundy, p. 728
[2]*Ibid*
[3]May, p. 183
[4]Rule 386
[5]Rule 387
[6]Rule 387A

WITNESS(ES)

A person who gives evidence or attests[1]; a person who testifies in a Court[2]; One who gives evidence in a cause;[3] in Parliament, a person called to give evidence or produce any document before its Committees;[4] in British Parliament, witnesses are summoned to give evidence before the Houses and Committees by serving on them the order of the House and are required to attend at the bar on a certain day. If a witness violates the order and does not attend, he is ordered to be taken into custody;[5] a member or officer of either House may be called to appear before a Select Committee of either House as a witness by sending a message to the House to which he belongs.[6]

In India, witnesses are called to give evidence before Parliamentary Committees through a written communication or by issuing formal summons. If a witness fails to appear before the Committee his conduct constitutes contempt of the House and the matter is reported to the House.[7] If a witness to be examined is in jail, his attendance is secured through Home Ministry and State Government concerned.[8] In special cases witness may be permitted to be represented by a Counsel during judicial investigations by a Committee.[9] A Parliamentary Committee has discreation to treat evidence tendered by a witness as secret or confidential.[10]

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[1]Chambers, p. 1150
[2]Webster, p. 1680
[3]Wharton, p. 1073
[4]Rule 269(1)
[5]May, pp. 64, 646-648
[6]Abraham & Hawtrey, p. 230
[7]Kaul & Shakdher, p. 755
[8]*Ibid* 755
[9]Rule 271 & Kaul & Shakdher, pp. 755-756
[10]Rule 269 (2)

WITNESS, ABSCONDING

Avoiding the summons for attending the House or its Committee by witness; it is a breach of privilege in the House of Commons; if the witness does not obey the order, the House has ordered a witness to be sent for in custody of the sergeant at Arms and the Speaker may be ordered to issue his warrant accordingly, or he may be declared guilty of a breach of privilege and ordered to be taken into custody of the Sergeant at Arms.[1]

In India, absconding of a witness by avoiding summons is treated as a contempt of the House and dealt with as such.[2]

[1]May, p. 263
[2]Kaul & Shakdher, p. 277

WITNESS, ATTENDANCE OF

Attendance of witnesses in Parliament or its Committees for giving evidence.

In the House of Commons or its Committees, members of either House or a member of public or officers of eigher House are required to appear as witness for giving evidence or for submitting papers on the order or request made to them.[1] In case of a Committee, the Chairman calls for attendance of the witnesses.[2] If a member of public fails to attend, it may amount to a Contempt of the House and the matter may be reported to the House.[3]

In India, officials of Government of India or members of the public can be called/summoned as witnesses before a parliamentary Committee[4] for the purpose of giving evidence or for submitting documents. If a witness is in jail, his attendance is sought through Ministry of Home Affairs and the concerned State Government. Failure to attend to give evidence by the witness may constitute contempt of the House[5] and the matter may be reported to the House.

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[1]May, pp. 648-649
[2]*Ibid*, p. 618
[3]*Ibid*, p. 150
[4]Kaul & Shakdher, p. 755 and Rules 269 (1) & 270
[5]Kaul & Shakdher, pp. 277 & 755

WITNESS, CONDUCT OF

Witnesses appearing before a Committee of Parliament have to observe proper decorum and etiquette.[1] In Lok Sabha the points drawn for their guidance are: to show due respect to the Chairman and to the Committee *i.e.* to bow while taking or leaving their seats; to take oath or make affirmation if so asked by the Chairman; to answer questions in a courteous and polite language; not to smoke or chew before the Committee.[2]

(Also *see* under 'witness, misbehaviour of')

[1]Kaul & Shakdher, p. 756
[2]*Ibid,* p. 684

WITNESS, COUNSEL FOR

A person employed by witness to act in his behalf; an agent.[1]

A person or persons giving advice about legal matters (lawyer or group of lawyers) engaged by a person who testifies in a court or Committee.[2]

A Committee may, under the direction of the Speaker, permit a witness to be heard by a counsel appointed by him and approved by the Committee.[3]

in the British Parliament, promoters and opponents of Private Bills and provisional order bills, petitioners against special procedure orders whose petitions stand, or have been, referred to Joint Committees and the Ministers who made the orders are given by standing order the right to be heard before the Committee on the bill or the petition "by themselves, their counsel or agents." A similar right is given to promoters and opponents of hybrid bills when such bills are committed to Select Committees. In other cases the question of hearing of the counsel is left to the discretion of the Committee.[4] Where Counsel are engaged, the examination of witnesses is mainly conducted by them, subject to the interposition of questions by Members.[5]

In the Indian Parliament, generally a witness is heard in person by a Committee. In special circumstances, however, especially in inquiries or investigations of a judicial character, a witness is permitted to be represented or accompanied by a counsel.[6]

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[1]Anderson, p. 91
[2]Webster, pp. 336 and 1680
[3]Rule 271
[4]Abraham and Hawtrey, p. 81
[5]May, p. 264
[6]Kaul & Shakdher. pp. 755-756 and Rule 271

WITNESS, EVIDENCE OF

Testimony by witnesses before the House of a Legislature or its Committees; in U.K. witnesses are summoned for tendering evidence in the Houses of Parliament or the Committees thereof; when a witness is examined by the House of Commons, he has to tender his evidence at the bar.[1] The Committees appointed by the House can take evidence of witness only when they are expressly authorised by the House and are given power of sending for persons[2]; tendering of false evidence by a witness before a Committee constitutes contempt which is reported to the House and action is taken as the House may deem fit;[3] if a witness gives false evidence on oath, it forms a punishable offence of perjury and the House can imprison the witness or direct the Attorney-General to prosecute the offending witness.[4]

In India, oath or affirmation is not ordinarily administered to witnesses appearing before committees. An oath or affirmation is administered to a witness only where the investigation is of a judicial or quasi-judicial nature and the truth of the facts has to be ascertained;[5] presenting false, forged or fabricated documents evidence by a witness constitutes contempt of the House and the House has power to punish the witness for contempt;[6] whole or a part of the evidence tendered by a witness may be laid on the Table of the House on the direction of the Committee and it cannot be published till it is laid on the Table of the House.[7] The Committee has the discretion to treat any evidence, oral or written, given before it, as secret or confidential.[8] Where witnesses appear before a Committee, the Chairman is required to make it clear to them that their evidence is liable to be published unless they specifically desire that all or any part of their evidence is to be treated as confidential; however the Chairman may make such part of the evidence as is desired by the witnesses to be kept secret, available to the Members of Parliament.[9]

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[1]May, p. 264
[2]Abraham and Hawtrey, p. 231
[3]May, p. 109-110
[4]*Ibid,* pp. 110, 139
[5]Rule 271(1) and Kaul & Shakdher, p. 756
[6]Kaul & Shakdher, p. 278
[7]Rule 275(1) & (3)
[8]Rule 269(2)
[9]Direction 58

WITNESS, EXAMINATION OF

The interrogation or questioning of a witness to elicit his personal knowledge as to one or more facts[1] the questioning of witnesses appearing before a legislature or its Committees, by the Members thereof.

In the British Parliament, witnesses appear before the House, the Committee of the whole House and its Select Committees. In the Lords, they are sworn at the bar and then examined by the Lords generally. When Counsel are engaged, the witnesses are examined by them, and by any Lord who may desire to put questions. In the Commons if a witness is not in custody under the strict rule of the House, the Speaker has to put all the questions to the witnesses; Members can only suggest to him the questions which they desire to be put. But in order to avoid repetition of each question Members are usually permitted to put questions directly to the witness. If a question is objected to or if any difference arises in regard to the examination of a witness, he is directed by the Speaker to withdraw and then the matter is considered. In the Committee of the whole House, members can put questions directly to the witness; when there are counsel, examination is conducted by them and the Members can interpose questions.[2]

When a Select Committee examines the witnesses, they are bound to answer all questions which the Committee sees fit to put them.[3] When parties are allowed to call witnesses, the examination is mainly conducted by the parties themselves or their counsel; however, Members of the Committee may also participate in the Examination.[4]

In the Indian Parliament, examination of witnesses is conducted by the Committees of Parliament.

Before a witness is called for an examination, the Chairman and members of the Committee briefly confer and decide upon the lines to be followed in the examination of the witness and the questions to be asked of him. The Chairman first asks the witness such questions as he may consider necessary with reference to the subject matter under consideration or any subject connected therewith. Thereafter, other members of the Committee may one by one ask the witness any other question. In the case of a Select or Joint Committee on a Bill, where a witness is called to give evidence after considering a written memorandum submitted by him, examination of the witness is confined mainly to matters not clarified in his memorandum and to such other matters as arise therefrom.

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[1]Anderson, p. 424
[2]May, pp. 263-264
[3]*Ibid,* p. 651
[4]*Ibid,* p. 653

The questions are confined to matters that affect the interest represented by the witness or upon which he is competent to express an opinion. After all the members of the Committee have finished with their questions, the Chairman may ask the witness to place before the Committee any other relevant points which may not have been covered and which the witness thinks are essential to be placed before the Committee. A witness may also, with the permission of the Chairman, place before the Committee any other relevant information which may not have been already placed before the Committee.[5]

[5]Kaul & Shakdher, p. 756 Rule 273 and Direction 62

WITNESS, INTIMIDATION OF

The conduct on the part of any person to deter a witness from giving evidence before the House or its Committee; it is a breach of privilege and punishable by the House.[1]

Intimidation of witnesses constitutes a breach of privilege and contempt of the House both in the British Parliament as well as in the Indian Parliament.

[1]May, p. 150

WITNESS, MISBEHAVIOUR OF

The behaviour of witnesses before the Legislature or its Committees which constitutes a breach of its privileges and a contempt of the House. In the British Parliament refusal to be sworn or to answer questions or produce papers which they have been directed to produce, giving false evidence or prevaricating and suppressing truth, are some of the examples of misbehaviour on the part of witnesses;[1] it also includes trafling with a Committee, using saucy language and deriding, returning insulting answers to a Committee, appearing in a state of intoxication, or destroying, after first examination before a Committee, material document relative to their inquiry.[2]

In the Indian Parliament too, misbehaviour on the part of witnesses is regarded as a breach of privilege and contempt of the House and hence punishable by the House; some typical examples of misbehaviour are: refusal by witness to make an oath or affirmation before a Committee, refusal by a witness to answer questions put by a Committee, refusal to produce documents in his possession, prevaricating, giving false evidence, wilfully supressing truth or persistently misleading a Committee, returning insulting answers to a Committee etc.[3]

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[1]Abraham & Hawtrey, p. 231
[2]May, p. 110
[3]Kaul & Shakdher, pp. 276-277

WITNESS, MOLESTATION OF

To interfere with or meddle with witnesses during their attendance in the House or its Committees so as to trouble or harm them for giving evidence. The instance of molestation of witnesses are as follows:—

(i) Assault upon witnesses in the precincts of the House;

(ii) Use of threatening language within the precincts of the House;

(iii) Use of insulting or abusive language to witnesses within the precincts of the House.[1]

The act of molestation constitutes the contempt of the House in the British as well as Indian Parliaments and is punishable by the House.[2]

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[1]May, p. 122
[2]Kaul & Shakdher, pp. 247, 285

WITNESS, OATH BY

Administration of oaths to the witnesses appearing in the Legislative House or its Committees.

In the House of Lords or in the Committee of the whole House witnesses are sworn at the bar.[1] In the Commons and the Committee of the whole House also, witnesses are adminstered oath or affirmation at the bar; it is administered by a Clerk at the Table.[2] Oaths and affirmations are administered to witnesses in the Select Committees of both Houses too; in Committees the oath is administered either by the Chairman or the Clerk attending the Committee. In the Lords' Committees, witnesses are only sworn upon inquiries of a special character and Select Committees on private Bills, in the Commons, Committees too, witnesses are examined upon oath, usually in respect of judicial inquiries or inquiries of a special character.[3] In the Indian Parliament, ordinarily oath or affirmation is not administered to witnesses appearing before Committees; it is done only when the investigation being done by the Committee is of a judicial or quasi-judicial nature and the truth of the facts has to be ascertained.[4] There is no practice of witnesses being summoned to the bar and administered oath in the House as is done in the Houses of British Parliament.

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[1]May, p. 654
[2]*Ibid,* p. 654
[3]*Ibid,* p. 654
[4]Kaul & Shakdher, p. 756

WITNESS, PRIVILEGES OF

As in the case of Members, the privileges of freedom from arrest and molestation are also available to all witnesses summoned to attend before either House of Parliament or before Parliamentary Committees.[1]

The House of Commons, in a resolution passed on 8 March, 1688, resolved, "That it is the undoubted right of this House that all witnesses summoned to attend this House, or any Committee appointed by it, have the privilege of this House in coming, staying and returning". The House, thus, punishes anyone who arrests or procures the arrest of a witness summoned to attend the House or any of its Committees, for contempt of the House; however, as in the case of Members, this privilege extends only to civil process[2] molestation of and tampering with witnesses also constitute breach of privilege of the House; similarly, bringing of legal proceedings against any person who has given evidence before the House or its Committees too is a breach of privilege.[3]

In the Indian Parliament too the privilege of freedom from arrest and molestation has been extended to witnesses summoned to attend before the House or any of its Committees. Thus, it is a contempt of the House to arrest a witness summoned to attend before the House or its Committees, or molest him during his attendance therein; it is also a breach of privilege and contempt of the House to tamper with a witness in regard to the evidence to be given before the House or any Committee thereof or to attempt directly or indirectly to deter or hinder any person from appearing or giving evidence before the House or its Committees.[4]

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[1]May, p. 105
[2]*Ibid,* p. 126
[3]*Ibid,* pp. 127-128
[4]Kaul & Shakdher, pp. 289-290

WITNESS, PROTECTION OF

Protection from arrest, molestation, threats or legal proceedings provided to witnesses appearing before a legislature or its Committees.

(For details, *see* 'Witnesses, Privileges of')

WITNESS, SUMMONING OF

The order of a legislative House or its Committees to a witness to appear before it for the purpose of giving evidence.

In the Lords, the witnesses are ordered to attend at the bar on a certain day; they are served with the order of the House signed by the Clerk of the Parliament. If the witness is in custody of a keeper of a prison, the keeper is ordered to bring the witness up in custody, if after the service of the order, the witness does not attend, he is ordered to be taken into custody.

In the Commons too, the order summoning witnesses is signed by the Clerk of the House; the witness is ordered to attend at the bar; the order is served on him personally; if he does not obey the order he may be ordered to be sent for in custody of the Serjeant at Arms.[1]

Summons to the witnesses to appear before a Committee of the Lok Sabha is signed by the Secretary-General.[2] Generally a letter is addressed and a formal summons is issued to a witness only when a Committee is conducting an investigation of a judicial character.[3]

If a witness fails to appear in response to the summons letter his conduct constitutes contempt of the House.[4]

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[1]May, pp. 263-264
[2]Rule 269
[3]Kaul & Shakdher, p. 755
[4]*Ibid,* 755

WITNESS, TAMPER WITH

To endeavour, to induce, to give false evidence or to suppress the truth or to endeavour directly or indirectly to deter or hinder any person from appearing or giving evidence.[1]

To tamper with a witness in regard to the evidence to be given before either House or any Committee of either House is a breach of privilege in British Parliament as well as in the Indian Parliament.[2]

(For details, *see,* "Witness, Privileges of")

[1]Abraham & Hawtrey, p. 232
[2]May, p. 127; Kaul & Shakdher, p. 290

WRIT

A legal instrument to enforce obedience to the orders and sentence of the courts;[1] a formal legal document ordering or prohibiting the performance of some action;[2] a remedy for the enforcement of fundamental rights and other purposes; the main writs are (i) habeas corpus; (ii) mandamus; (iii) prohibition; (iv) quo warranto; and (v) certiorari.[3]

In England, formerly known as prerogative writs, replaced by orders in the nature of mandamus, prohibition and certiorari; in the case of quo warranto an injunction would be issued by the High Court; however, the writ of habeas corpus subsists as a prerogative writ in its ancient form.[4]

In India, the Supreme Court as well as the High Courts are empowered to issue the above writs; the Supreme Court can issue the writs only for the enforcement of the fundamental rights; the High Courts, on the other hand, can issue the above writs for the enforcement of ordinary legal rights too.[5]

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[1]Wharton, p. 1078
[2]Webster, p. 1698
[3]Art. 32 & 226
[4]Basu (6th Edn.), Vol. H; 278
[5]*Ibid,* p. 286

Z

ZERO HOUR

The time set for the beginning of an attack or other military operation; any crucial or decisive moment.[1]

The usually noisy interregnum between the Question Hour and the beginning of the rest of the day's business in a Legislature; Members raise often without notice, various matters during this period.

In the House of Commons, Private Members are afforded an opportunity to raise various matters during the debate on the daily adjournment motions.[2]

In the Lok Sabha, Zero Hour proceedings are allowed as a matter of convention; not sanctioned by any rule of the House. Members raise various matters of urgent public importance sometimes leading to unruly scenes in the House; recently regulated by the Speaker by allowing seven members each day to raise very urgent matters with proper notice with each member taking not more than one minute.[3] This has "resulted in matters being raised in a more dignified and orderly manner on the Floor of the House."[4]

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[1]Webster, p. 1698
[2]May, p. 325
[3]*L.S. Deb.*, 24 April, 1990
[4]*L.S. Deb.*, 7 Sept., 1990

DICTIONARY OF

CONSTITUTIONAL AND PARLIAMENTARY TERMS

LOK SABHA SECRETARIAT
New Delhi